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Published Bi-monthly by
THE AMERICAN POLITICAL SCIENCE ASSOCIATION

Publication Office, 450-458 Ahnaip St., Menasha, Wis.

Editorial Office
209 South Hall
University of Wisconsin
Madison, Wisconsin

Secretary of the Association
105 Harris Hall
Northwestern University
Evanston, Illinois

Foreign Agents, P. S. King and Staples, Ltd., Great Smith St., Westminster, London

Entered as second class matter at the post office at Menasha, Wis., under the Act of August 4, 191 . Acceptance for mailing at special rate of postage provided for in Section 1103, Act of October 3, 1917, authorized May 12, 1926.

Made in the United States of America

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THE AMERICAN POLITICAL SCIENCE REVIEW, published bi-monthly, is supplied to all members of the American Political Science Association. The annual dues are $5.00 a year ($3.00 for graduate and undergraduate students). Fifty cents should be added for foreign postage.

Current issues, $1.00 per copy. Prices of other issues, and of complete volumes, are listed near the end of this number.

Applications for membership, orders for the REVIEW, and remittances should be addressed to 450–458 Ahnaip St., Menasha, Wis., or to Kenneth Colegrove, 105 Harris Hall, Northwestern University, Evanston, Ill.

Correspondence concerning contributions to the REVIEW—also books submitted for review—should be addressed to Frederic A. Ogg, Managing Editor, 209 South Hall, University of Wisconsin, Madison, Wis.

Articles and notes in the REVIEW are indexed in the *Reader's Guide to Periodical Literature*.

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The American
Political Science Review

VOL. XXXVII AUGUST, 1943 NO. 4

THE GERMAN PEOPLE AND THE POSTWAR WORLD

A STUDY BASED ON ELECTION STATISTICS, 1871–1933

BY SYDNEY L. W. MELLEN
Washington, D. C.

What are the German people really like? A weird assortment of catchwords and formulas have been put forward, most of them as unscientific as Hitler's own racial doctrines: aggressors throughout the ages, perpetrators of a black record of war and aggression, submissive and obedient regiments, cultural and political romanticists, rebels against the established order, victims of a national inferiority complex, sentimentalists, Dr. Jekyll and Mr. Hyde, and so on. And yet unless the people of the democracies attain a realistic understanding of the Germans there will be a poor chance, after the war is finally won, of attaining a permanent solution of the German problem.

In the articles and books written about the German people in recent months and years, little or no attention has been given to one set of historical facts which is capable of providing a trustworthy and statistically balanced background: the record of popular election results from 1871 to 1933. In the long series of Reichstag elections in this period, the German people as a whole expressed their composite preferences concerning the dominant political issues of the times; and the very multiplicity of the political parties, each with more or less distinct character and policies, provides us with fairly extensive breakdowns of public opinion.

The primary purpose of the present article is to set forth these election statistics in full, and to attempt an analysis or interpretation of them in terms of the political tendencies of the German people. Attention will be focussed throughout on the question which is of primary interest from the standpoint of future peace: the atti-

tude of the people toward militarism and aggressive nationalism. The article will recall to mind the changing historical settings in which the elections took place, but it is essentially a study of public opinion and by no means a complete or continuous historical outline.

This approach to the German problem has important limitations. Some of the questions which we should most like to have answered are not answered directly by the election figures, but only inferentially or not at all. In every election, many different factors were at work, and undoubtedly many voters supported each party, not because of, but in spite of, the party's policies on the issues of greatest interest to us—though where the numbers considered are as large as they here are, such discrepancies should offset each other for the most part. A ballot does not measure a given voter's intensity of feeling, or his influence in the community. For these and other reasons, even the present method does not permit of any great refinement or precision in conclusions about the German people. However, it does disclose certain broad massive developments in public opinion and provide some quantitative measure of important political tendencies at different times and under different conditions.

After 1933, of course, owing to the voting procedures instituted by the Nazis, election results throw no light on the political desires of the German people, and there is little reliable information of any other kind.

I. REICHSTAG ELECTIONS, 1871–1912

For this first period, the historical background can be dealt with as a whole and very briefly. By 1871, Prussia, under Bismarck's guidance, had waged a series of three aggressive wars within a decade, each a model of one-at-a-time diplomacy and *blitzkrieg* strategy, and had emerged as the supreme military power on the Continent. Bismarck had then perfected his creation of the German Empire, thus achieving by cunning and force a unification of Germany which the middle class liberals had sadly failed to achieve in 1848 through peaceful discussion. Incidentally, through the acquisition of Lorraine, he had attached to Germany half of an iron ore deposit which was to become the most valuable in Europe. For the new Empire, the period 1871-1914 brought a great increase in population and a phenomenal expansion of industry and commerce.

Between 1890 and 1910, Germany's steel production increased seven times as fast as England's. Under Kaiser William II, the foreign policies of the Empire became increasingly ambitious. It was the generation of *Weltpolitik*, of the Pan-German League and the Navy League. The army kept pace with the growth of population, and a powerful navy was built. Partly, but by no means solely, for these reasons, there was throughout Europe, especially toward the end of the period, a continuous and generally increasing tension in the relations among the leading powers. General European wars were several times narrowly averted.

It is desirable to recall the limitations of the Imperial Reichstag. In formulating the constitution of the Empire, Bismarck had been careful to keep the ultimate power in the hands of the monarchy and Junker nobility of Prussia. The king of Prussia was automatically German Kaiser, and the executive power was held by him as Kaiser and by his Chancellor, who was appointed by him and responsible to him. The Reichstag was a popular body, in that its members were elected by the votes of all men in the Empire over 25 years of age voting in separate representative districts; but it had much less power than the British House of Commons. It could not force the resignation of the Chancellor; the Kaiser could declare war without its consent; the Kaiser held unrestricted control over the army and navy; the Reichstag's approval was required for new taxes, but taxes once enacted could be levied year after year by the Government; there was no constitutional bar to the appropriation of money for several years at a time, and military budgets were generally proposed for periods of five to seven years. In addition to these constitutional limitations, the Reichstag had another grave defect: the representative districts mapped out in 1871 were never changed, in spite of enormous changes thereafter in the distribution of the population—particularly the rapid growth of industrial cities. This resulted in freakish discrepancies from time to time between the popular votes polled by a given party and the number of seats obtained in the Reichstag. In 1907, as an extreme example, the Social Democratic party, with 3,259,000 popular votes, won 43 seats in the Reichstag, while the two Conservative parties together, with only 1,532,000 popular votes, won 84 seats, so that representation was weighted four to one in favor of the Conservative voters.

In practice, the Reichstag had a real influence upon events, but

the institutions through which the primary leadership of Germany was exercised were the hereditary monarchy and nobility of Prussia, the bureaucracy, the army, and later industry—rather than the Reichstag. It is therefore understandable that the people themselves, the voters, should have taken less interest in its proceedings and its campaigns than in England—where in the last third of the nineteenth century the great contests between Gladstone and his Conservative opponents were followed by the ordinary workingman with as much keenness as if those statesmen had been cricket-players or even horses.

Table I below presents statistics on the popular votes for candidates of the various political parties for Reichstag seats, as a measure of the wishes of the German people, during the period 1871–1912. A few paragraphs about the composition and policies of the major parties may be helpful, with special attention to "national" questions.

There were four leading parties of the Right: the German Conservatives, the German Empire party (or Free Conservatives), the National Liberals, and the Anti-Semitic party. The first of these was primarily a Prussian Junker party, a bulwark of the Hohenzollern monarchy. It enthusiastically supported all military bills. The second was composed of Junkers progressive enough to be German as well as Prussian, and even to make certain cautious concessions to nineteenth-century liberalism. It also was thoroughly nationalistic. The National Liberals were above all national, and hardly liberal at all, especially in the latter half of the period. They became the party of the wealthy middle class, and their members included many of the leading industrialists. They were perhaps the outstanding supporters of militarism and a strong national policy. The Anti-Semitic party was generally conservative, and again thoroughly nationalistic.

In the Middle, there were a number of shifting liberal parties which may be grouped together and referred to collectively under the name of Radicals (*Freisinnige*), and the Catholic Center party. The Radicals were mainly nineteenth-century parliamentary liberals. They included a number of commercial and banking leaders and many lesser merchants; also a number of Jews. Their creed was governmental economy, free trade, economic *laissez-faire,* and parliamentary government. Eugen Richter was their foremost spokesman. Except for the Radical Alliance (a national-

ist wing of the Radical parties which had a separate identity from 1893 to 1910), the Radical parties were as a general rule in opposition to the Imperial Government on national questions, specifically the major army and navy and colonial bills. Richter consistently opposed imperialism and *Weltpolitik*. After Richter's death in 1906, the opposition of the Radical parties on national questions became noticeably less strenuous, and efforts were made to have them included in the Government's *bloc;* but their support could never be taken for granted, and they always remained either actually or potentially an opposition group. Although plainly patriotic, they were never primarily nationalistic (with the possible exception of the Radical Alliance), and never a war group. In 1910, the various Radical parties were merged into a new party called the Progressive People's party.

The Center party was originally organized to defend the Catholic Church and its members, a religious minority, against discrimination by the Imperial Government. Its members and supporters were almost exclusively Catholics, and represented a majority of all the Catholics in the Empire. With this confessional base, the party included many divergent economic and political interests. In particular, it comprised two major elements, one aristocratic or bourgeois, and conservative, and the other democratic or radical (led by Erzberger toward the end of the period), representing lower middle-class Catholics, Catholic laborers, and South German farmers. To a large extent, the position taken by the party as a whole from time to time depended upon which of these elements was then dominant within it, though governmental economy was consistently a major preoccupation of the party. In the 1870's and 1880's, Bismarck engaged in his well-remembered *Kulturkampf* against the Catholic Church and the Center party, and in 1906–07 Bülow challenged the party to a trial of strength, so that the Center was more often than not in opposition to the Imperial Government. It was always one of the largest parties, and often held the balance of power in the Reichstag. It never figured as a leading proponent of nationalistic policies (indeed the enemies of the Center accused it primarily of ultramontanism, meaning loyalty to a foreign power, the international Church at Rome). However, the leaders made repeated claims to patriotism as Germans, and the party often acquiesced in the Government's requests for army and navy credits—though as a rule reluctantly and with irritating demands for econ-

omy and for direct taxes to meet the costs entailed. On the whole, the Center was never "reliable" on national questions except for very short periods and in special circumstances.

We come now to the Social Democratic party. Founded in 1867, this party in Germany was part of the world-wide socialist movement in response to modern industrialism; but in Germany the membership and popular following became larger than in any other country. The German party stood for democracy, diluted Marxism, and peace and international coöperation. It early decided to seek its objectives, not by "direct action," that is, revolution, but by parliamentary methods, usually obstruction; and as its strength in the Reichstag grew, the requirements of parliamentary politics and the desire for more and more voters caused a progressive attenuation of Marxist doctrines. Preferring reform to revolution, it became a left-wing democratic labor party rather than a socialist party. Notwithstanding, the conservative and middle-class interests considered the party a threat to property rights and the established order.

On national questions, the party invariably opposed the Imperial Government: from 1870, when it refused to vote credits for the war with France, to 1912, when it opposed a five-year army appropriation, the party was inflexibly opposed to militarism and nationalism. To quote an objective student of German party politics: "War, in Socialist thought, was not possible between 'peoples,' but was an expression of the economic rivalries of the ruling classes. The interest of the people demanded peace. So the Social Democrats advocated a foreign policy based on the principle that Germany's task was to live in harmony with other nations. And they opposed an aggressive policy founded upon the idea that Germany should require concessions of other nations by a show of force and power. They criticized 'power politics' and they opposed the instruments upon which such a policy rested for support—armaments and militarism. They opposed the German army because they considered it to be the aggressive instrument of German capitalism in *Weltpolitik*. . . . With the same considerations the Social Democrats opposed the German naval program . . . and Germany's colonial policy."[1] If they had had their way in military matters, Germany would have been provided with a democratic citizens' army, a militia suitable for defense purposes only, and not for at-

[1] George D. Crothers, *The German Elections of 1907* (New York, 1941), pp. 56–57.

tack. Although sometimes branded by imperialists as a "traitorous rabble," they considered themselves patriotic Germans, and their spokesmen always emphasized that they would support a war in defense of the Fatherland if attacked. Moreover, after the election of 1907, when the party suffered a temporary setback, the leaders grew less truculent in their anti-nationalistic activities in the Reichstag. However they remained, right up to the outbreak of the war, an opposition party, implacable enemies of a war of conquest by Germany and of any measures which they thought might lead to that result.

There remain the particularist and minor parties—Poles, Alsatians, Guelphs, Agrarian League, Economic Union, and others. For the purposes of this synopsis, these numerous parties may be disregarded. Most of them were small. On national questions, the opposition tendencies of the Poles outweighed the imperialism of the conservative Agrarian League and Economic Union.

Against this background is presented Table I, which may be offered with a few observations:

1. There was at all times a sizable portion of the German population which supported parties whole-heartedly in favor of *Weltpolitik*, military expansion, and imperialism. Those were the parties of the Right—Conservatives, National Liberals, and Anti-Semites—representing the nobility and the wealthy bourgeoisie. (In the peculiar constitutional and administrative structure of the Reich, those were groups which exercised political power greatly out of proportion to the number of seats which they held in the Reichstag and still more out of proportion to their popular following.)

2. In the course of the period 1871–1912, the proportion of the total number of popular votes cast which were cast in favor of those militaristic or imperialistic parties followed a pronounced downward trend, declining from 53.1 per cent to 26.3 per cent.

3. A large minority of the voting population supported a group of parties—various Radical parties and the Catholic Center, together constituting the political and economic Middle—whose attitude on national questions was divided, neutral, or "unreliable," and whose position in the Reichstag was more often than not one of opposition to the Imperial Government. In the last election, in 1912, these parties polled 28.6 per cent of the total number of votes cast (or 25.4 per cent excluding the Radical Alliance)—a moderate decline from the earlier years.

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TABLE I

REICHSTAG ELECTIONS, 1871–1912

Popular Votes, Stated in Thousands
(Rearrangement of Data from Statistisches Jahrbuch für das Deutsche Reich, 1921–22)

	1871	*1874*[a]	*1877*	*1878*	*1881*	*1884*	*1887*	*1890*	*1893*	*1898*	*1903*	*1907*	*1912*
Total number entitled to vote	7,656	8,523	8,943	9,124	9,090	9,383	9,770	10,146	10,628	11,441	12,531	13,353	14,442
Total number of valid votes cast	3,888	5,190	5,401	5,761	5,098	5,663	7,541	7,229	7,674	7,753	9,496	11,263	12,208
% of total number entitled to vote	50.8	60.9	60.4	63.1	56.1	60.4	77.2	71.3	72.2	67.8	75.8	84.4	84.5
Parties													
1. Consistently nationalistic major parties:													
German Conservatives	549	360	526	749	831	861	1,147	895	1,038	859	949	1,060	1,126
German Empire party	346	376	427	786	379	388	736	482	439	344	333	472	367
National Liberals	1,171	1,542	1,469	1,331	747	997	1,678	1,178	997	972	1,317	1,631	1,663
Anti-Semites	—	—	—	—	—	—	12	48	264	284	245	248	52
Total	2,066	2,278	2,422	2,866	1,957	2,246	3,573	2,603	2,738	2,459	2,844	3,411	3,208
% of total number of valid votes cast	53.1	43.9	44.9	49.7	38.4	39.7	47.4	36.0	35.7	31.7	30.0	30.3	26.3
% of total number entitled to vote	27.0	26.7	27.1	31.4	21.5	23.9	36.6	25.7	25.8	21.5	22.7	25.6	22.2
2. Parties which were divided, neutral, or "unreliable" on national questions:													
Various radical parties (including South German People's party)	643	523	598	607	1,182	1,093	1,062	1,308	1,092[b]	863[b]	873[b]	1,234[b]	1,497[c]
Center	724	1,446	1,341	1,328	1,183	1,282	1,516	1,342	1,468	1,455	1,875	2,180	1,997
Total	1,367	1,969	1,939	1,935	2,365	2,375	2,578	2,650	2,560[b]	2,318[b]	2,748[b]	3,414[b]	3,494
% of total number of valid votes cast	35.2	37.9	35.9	33.6	46.4	41.9	34.2	36.7	33.3[b]	29.9[b]	28.9[b]	30.3[b]	28.6
% of total number entitled to vote	17.9	23.1	21.7	21.2	26.0	25.3	26.4	26.1	24.1[b]	20.3[b]	21.9[b]	25.6[b]	24.2
3. Consistently anti-nationalistic party: Social Democrats	124	352	493	437	312	550	763	1,427	1,787	2,107	3,011	3,259	4,250
% of total number of valid votes cast	3.2	6.8	9.1	7.6	6.1	9.7	10.1	19.7	23.3	27.2	31.7	28.9	34.8
% of total number entitled to vote	1.6	4.1	5.5	4.8	3.5	5.9	7.8	14.1	16.8	18.4	24.0	24.4	29.4
4. Particularist parties (Poles, Alsatians, Guelphs, Danes), minor parties (including Agrarian League and Economic Union), and all others, combined	331	591	547	523	464	492	627	549	589	869	893	1,179	1,256
% of total number of valid votes cast	8.5	11.4	10.1	9.1	9.1	8.7	8.3	7.6	7.7	11.2	9.4	10.5	10.3
% of total number entitled to vote	4.3	7.0	6.1	5.7	5.1	5.3	6.4	5.4	5.5	7.6	7.2	8.8	8.7

[a] Including Alsace-Lorraine.

[b] The figures shown for the Radical parties in the elections of 1893–1907 include the following votes (with percentages) polled by the Radical Alliance, a nationalistic group which from 1893 to 1910 sided fairly consistently with the Conservatives and National Liberals on national questions:

	1893	*1898*	*1903*	*1907*
Votes (000)	259	196	243	359
% of total number of valid votes cast	3.4	2.5	2.6	3.2
% of total number entitled to vote	2.4	1.7	1.9	2.7

[c] All Radical parties united as the Progressive People's party.

4. A sharply rising proportion of the voting population supported the Social Democratic party, which throughout the period was inflexibly opposed to militarism and nationalism. By 1912, this party polled 34.8 per cent of all the votes cast, as compared with 28.6 per cent for the Middle parties combined and 26.3 per cent for the imperialistic parties. From 1890 on, the Social Democrats polled a larger number of popular votes than any other party, and by 1912 they polled more than twice as many votes as the second largest party. (The number of seats which they won in the Reichstag was often far less than proportionate to the number of popular votes cast, and their effective political power still less so.)

With due regard for the limitations of this method of studying German public opinion, one or two broad conclusions may safely be stated. The trend of opinion over this period was strongly away from militarism and aggressive nationalism. By the end of the period, a sizable conservative minority (possessing disproportionate political power) was still whole-heartedly militaristic, but a majority of the German people had no real liking for militarism, and the largest single political group among them, essentially a labor party, was strongly opposed to it.

II. REICHSTAG ELECTIONS, 1919–33

After the war of 1914–18, there was some regrouping of political parties and some changing of discredited names. The two Conservative parties dropped their old names and coalesced into a new German National People's party. This "Nationalist party," as it came to be best known, continued as the representative of the great landowners (together with the conservative Protestant peasantry), and of some wealthy urban groups and nationalistic intellectuals and civil servants. The industrialist right wing of the National Liberal party reorganized itself under the inviting name of the German People's party. This new party, commonly known as the "People's party," thus became the party of big industry and finance; it, of course, had numerous supporters among the lower middle classes, but the party's policies were largely determined by its industrialist leaders. The Nationalists and the People's party together made up the political Right in the early postwar years; together, they represented reaction, "counter-revolution," and nationalism. Neither had a real belief in or liking for the new democratic Republic. And,

like the parties of the Right before the war, they had marked tendencies toward militarism. In their denunciation of the Versailles *Diktat*, there was an implication that the wrongs of the peace settlement would have to be righted by force.

The former Radical groups reorganized themselves promptly after the war as the German Democratic party, in which they were joined by the "liberal" wing of the old National Liberal party. The Democratic party started out as the leading organization for middle-class elements which wanted a democratic Republic. Its basic principles were the traditional capitalist principles of property-owning middle classes, combined with a restrained belief in democratic or parliamentary government and a disposition to coöperate peacefully with other nations. Owing in part to instability of policy on particular issues, it rapidly lost most of its popular following.

The Center party went on much as before, embracing nearly all shades of political opinion. In the early years after the war, the democratic or popular wing of the party held control, but after 1923 the conservative wing began to get the upper hand, and by 1930 the party had noticeable authoritarian leanings. Another Catholic party, the Bavarian People's party, soon became important—a regional adjunct of the Center party, possessing some independence but agreeing on fundamentals, and following, if anything, a somewhat steadier conservative course. The Catholic parties always gave their support to the new Republic, though with varying degrees of conviction. On international questions they were originally identified with the principle of peaceful coöperation (Erzberger having been prominent in the peace movement in the Reichstag starting in 1917), and they never became militaristic.

The new Democratic party and the two Catholic parties together composed the non-socialist portion of the postwar *bloc* which desired a peaceful and more or less democratic Germany. The "socialist" portion of that *bloc* was the majority wing of the Social Democratic party. This party (or the "Majority Socialist party," as it was referred to for a while, to distinguish it from the Independent Socialists) retained its theoretical allegiance to socialism as the ideal arrangement for a modern state, but its primary loyalty was to democracy. The Social Democrats had a perfectly good chance, in 1918-19, to establish a socialist state, but they refrained because they received no explicit mandate from the people. Far from being revolutionary, they were simply good democrats with a trade union

mentality and following. Internationally, their policy was more than ever one of collaboration in good faith. Although in the confusion of 1918-19 a few leaders associated themselves with militaristic elements on the Right, the membership as a whole continued to be strongly anti-militaristic.

From 1918 to 1923, there was a revolutionary section in the labor movement, or rather two rival sections—the Independent Socialists and the Communists, or Spartacists, as they were known at first—with varying revolutionary aims. But by 1924 the Independent Socialists had almost disappeared, breaking up to join either the Social Democratic party or the Communist party. Meanwhile the Communist party had become incapable of revolutionary action. Although it continued to use some of the old slogans, it was becoming increasingly subject to the domination of Moscow, and Moscow had shelved its policy of world revolution. Furthermore, the Communist party had lost its influence in the important trade unions. What mass support it had was that of unemployed workers.

One of the characteristics of German politics in the twenties was the rise of dozens of small new parties, most of them conservative or middle class. This phenomenon was due in part to certain features of the system of proportional representation adopted after the war—which made it possible for anybody with an idea capable of attracting a few thousand voters to form a party and perhaps win a seat or two in the Reichstag—but essentially it represented a disintegration of the traditional parties of the Right and Middle. Large numbers of voters, under the shock of interwar events, lost confidence in their old leaders and programs, broke away, and milled about in confusion, hoping for something new. Eventually they all thronged after a magician. Yet in the beginning these new parties were not homogeneous. Although most of their electoral following was recruited from among conservative, middle-class, and farmer groups, and although they had in common dissatisfaction, more or less intense, with the existing state of affairs and the existing leadership of the major parties, they developed a great variety of political and economic programs, some reactionary, some radical, some merely negative—and most of them designed to advance the special interests of particular groups. On questions of nationalism and militarism, they ranged from local farmers' leagues of rather violent tendencies to the large Middle Class party, which was never militaristic and whose original aim was simply to combine and or-

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TABLE

REICHSTAG ELECTIONS,
Popular Votes,
(Rearrangement of Data from Statistisches

	January 1919[a]	*June 1920*[b]	*May 1924*[c]
Total number entitled to vote	36,767	35,950	38,375
Total number of valid votes cast	30,400	28,196	29,282
% of total number entitled to vote	82.7	78.4	76.3
Parties[d]			
1. Nationalistic parties:			
Nazis			1,918
Nationalists	3,121	4,249	5,697
People's party	1,346	3,919	2,694
Several small parties combined[e]		319	1,228
Total	4,467	8,487	11,537
% of total number of valid votes cast	14.7	30.1	39.4
% of total number entitled to vote	12.1	23.6	30.1
2. Non-socialist republican parties:			
Democrats	5,642	2,334	1,655
Center	5,980	3,845	3,915
Bavarian People's party		1,238[f]	947
Several small parties combined[e]	275	219	818
Total	11,897	7,636	7,335
% of total number of valid votes cast	39.1	27.1	25.1
% of total number entitled to vote	32.4	21.2	19.1
3. Labor parties:			
Social Democrats	11,509	6,104	6,009
Independent Socialists	2,317	5,047	235
Communists		590	3,693
Total	13,826	11,741	9,937
% of total number of valid votes cast	45.5	41.6	33.9
% of total number entitled to vote	37.6	32.7	25.9
4. All other parties—10 to 20 parties, each receiving less than 100,000 votes:			
Total	210	332	473
% of total number of valid votes cast	0.7	1.2	1.6
% of total number entitled to vote	0.6	0.9	1.2
Breakdown of small nationalistic parties:			
Agrarian League			{575[g]
Württemberg Farmers' and Vineyardists' League			
German-Hanoverian party		319	320
Saxony Country People			
German Social party			333
German Country People			
Christian National Farmers' and Country People's party			
Conservative People's party			
Popular National Bloc			
Total		319	1,228
Breakdown of small non-socialist republican parties:			
Bavarian Farmers' League	275	219	{694
German Middle Class party			
German Farmers' party			
People's Rights party			
Christian Social People's Service			
Christian Social party			
Christian Social People's Community			14
Total	275	219	818

[a] Election to constitute the National Assembly.
[b] Including elections in two election districts in February, 1921, and in one election district in November, 1922.
[c] Certain particulars are supplied from issues of the *Jahrbuch* prior to the 1933 issue.
[d] In each election, all parties receiving less than 100,000 votes are included in Group 4.
[e] See the breakdown at the foot of the Table.

ganize the urban middle classes and the farmers and peasants, and then to obtain by constitutional means a betterment of their economic conditions. For purposes of this study, the most illuminating way to treat these dozens of new parties is to divide them as well as possible into two groups, one nationalistic, having affinities with the Nationalists and the People's party, and the other middle-class

II

1919–1933

Stated in Thousands

Jahrbuch für das Deutsche Reich, 1933)

December 1924[c]	*May 1928*[c]	*September 1930*[c]	*July 1932*[c]	*November 1932*	*March 1933*
38,987	41,225	42,958	44,227	44,374	44,686
30,290	30,753	34,971	36,882	35,472	39,343
77.7	74.6	81.4	83.4	79.9	88.0
907	810	6,410	13,746	11,737	17,277
6,206	4,381	2,458	2,177	2,959	3,137
3,049	2,680	1,578	436	662	432
921	1,371	1,760		105	
11,083	9,242	12,206	16,359	15,463	20,846
36.6	30.0	34.9	44.4	43.6	53.0
28.4	22.4	28.4	37.0	34.9	46.6
1,920	1,506[f,g]	1,322[f,h]	372[f]	336[f]	334[f]
4,119	3,712	4,128	4,589	4,231	4,425
1,134	946	1,059	1,193	1,095	1,074
1,005	2,472	2,842	648	259	498
8,178	8,636	9,351	6,802	5,921	6,331
27.0	28.1	26.7	18.4	16.7	16.1
21.0	21.0	21.8	15.4	13.3	14.2
7,881	9,153	8,578	7,960	7,248	7,182
2,709	3,265	4,592	5,282	5,980	4,848
10,590	12,418	13,170	13,242	13,228	12,030
35.0	40.4	37.7	35.9	37.3	30.6
27.2	30.1	30.6	29.9	29.8	26.9
439	457	244	479	860[i]	136
1.4	1.5	0.7	1.3	2.4	0.3
1.1	1.1	0.6	1.1	1.9	0.3
499	{199				
		194[g]		105	
263	196	144			
	128				
159					
		1,109			
	582[g]				
		313[g]			
	266				
921	1,371	1,760		105	
{1,005					
	1,397	1,363	147	110	
	481	340	137	149	114
	483	271[g]			
		868	364	—[j]	384
	111				
1,005	2,472	2,842	648	259	498

[f] Name changed to German State party.
[g] Includes an unimportant number of votes of another party.
[h] Apparently includes a considerable number of votes for candidates of the People's party.
[i] Probably includes one or more parties receiving over 100,000 votes. A complete breakdown is not available.
[j] See Group 4 and Note (i).

republican, having affinities with the Democrats and the Center. The former were reactionary, anti-democratic, and militaristic, while the latter were not marked by either militarism or nationalism and believed in a middle-class conception of democracy.

Although they started out as one of the tiny new parties, the Nazis will be treated separately. Because of their contempt for

democracy, their militarism, and their violent nationalism, they must be classified at the extreme Right, beyond even the Nationalists. They made a strong play for proletarian votes, and of course won a certain number; but the great bulk of their following was drawn from conservative and middle-class groups.

Table II shows the popular votes cast for the various parties' candidates in Reichstag elections from 1919 to 1933. In examining these postwar election results, it will repay us to consider with some care the background of events and economic conditions at the time of each election.

The election of January, 1919 (not for Reichstag deputies, but for members of the National Assembly which was to take over the reins from the provisional government and draw up a constitution for a new republican Germany), was the first formal expression of public opinion after the war, the defeat, and the so-called "revolution." The Allies' peace terms were not yet known; instead, Wilson's Fourteen Points were familiar to most Germans.

The total number of votes cast increased from about 12,200,000 in 1912 to about 30,400,000, reflecting the enfranchisement of women and a lowering of the voting age from 25 to 20. The election was an emphatic repudiation of militarism and reaction. The nationalistic parties together, only two of them at the time, got only 14.7 per cent of the votes cast, as compared with 26.3 per cent for their predecessors in 1912. At the same time, there was an overwhelming demand for a peaceful and democratic government, the non-socialist republican parties receiving 39.1 per cent of the votes cast and the moderate Social Democrats 37.9 per cent, a total of 77.0 per cent. In this democratic aggregation, the center of gravity lay somewhat toward the side of labor, but only moderately so. There was certainly nothing revolutionary about the vote as a whole; the socialist parties together failed to get a majority, and the quasi-revolutionary Independent Socialists were heavily outnumbered.

It may be noted here in passing that, in spite of this strong expression of the people's will, the new Government within a very short time gave up much of its real power to govern Germany. Its most important surrender, an irretrievable one which was destined ultimately to make the *Reichswehr* an almost autonomous power within the state, was to leave the function of maintaining order with officers of the Imperial Army. In addition, the concentration of

economic power in private hands was allowed to proceed more rapidly than ever; the Imperial judiciary was allowed to continue in control of the courts; and most of the administrative functions of the state were left with the old bureaucracy. (As time went on, some new and often unnecessary jobs were created for deserving Social Democrats and others.) Almost the only creative accomplishment of the democratic Governments in the early years of the Republic was the enactment of some progressive labor and social welfare legislation—indicating a modest trade union horizon.

Why (to pursue this digression a little further) were the new Governments so inadequate for the tasks before them? The chief reason is familiar: the "revolution" had not been a dynamic rise of new leaders, but simply a collapse of authority at the very top of the existing structure; the new leaders were not prepared for the power put in their hands, and in their uncertainty they turned it back to those who had held it before. In addition to this, of course, some of the problems facing the German Governments in the early postwar years were simply unsolvable. But there was another reason which should not be overlooked: death. Quite apart from the massive casualties of the war (the effect of which on Germany and France and some other countries must have been immense), Germany suffered shortly after the war the loss of several outstanding democratic leaders or statesmen. Luxemburg, Eisner, and Haase of the Left, Erzberger of the Center, and Rathenau of the Democratic party, were all assassinated between 1918 and 1922. In the same period, several hundred less well known democratic leaders, some of whom might have risen to great prominence, were murdered or executed by the orders of reactionary officials or killed in street fighting. Germany was able to produce able democratic statesmen and leaders, but the German counter-revolution systematically eliminated them.

To return to the table of election statistics, the election of June, 1920 (including later elections in three districts), reflects the popular reaction not only to the new Government's shortcomings but also to the Treaty of Versailles, signed by representatives of the Republic in June, 1919.

As to the Treaty, there was no choice but to sign or attempt to renew the war. Yet millions of German people who bitterly resented certain provisions of the Treaty never forgave their Government for signing it. The territorial provisions, although some of them

strained the spirit of the Fourteen Points somewhat, could certainly have been much worse; they were a tolerable solution of extremely difficult problems. On the other hand, subsequent historical research has confirmed the justice of the German objection to the "war guilt" clause[2]; certainly the great majority of the German people knew that the war had not been brought about by aggressive aims on *their* part. The exact practical effect of the reparations provisions was not to be known until May, 1921, when the Allied Governments finally figured out a provisional schedule of payments; but certain punitive deliveries in kind, including nearly all of the German merchant shipping fleet and 5,000 locomotives and other railway equipment, were required at an early date, and by the first part of 1920 it was evident that the principle of the reparations settlement would be to levy from the German people the full cost of the war over a long period of years, up to the maximum of their ability to pay.

The people's response in 1920 to their Government's early performance and to the Treaty was very drastic. Millions of voters left the moderate democratic parties of the Middle and Left, and moved to one extreme or the other, starting a tendency which was to proceed still further. The nationalistic parties of the Right gained 4,000,000 votes, doubling their relative strength. Both the Democrats and the Social Democrats suffered staggering losses. The Independent Socialists and Communists together increased their strength by 3,300,000 votes.

In turning to the election of May, 1924, it is again important to recall quite clearly the background of events. After the provi-

[2] The following is quoted from *The Origins of the World War*, by Professor Sidney Bradshaw Fay (2nd ed., New York, 1939), the standard work on the subject: "One must abandon the dictum of the Versailles Treaty that Germany and her allies were solely responsible. It was a dictum exacted by the victors from the vanquished, under the influence of the blindness, ignorance, hatred, and the propagandist misconceptions to which war had given rise. It was based on evidence which was incomplete and not always sound. It is generally recognized by the best historical scholars in all countries to be no longer tenable or defensible. They are agreed that the responsibility for the war is a divided responsibility. But they still disagree very much as to the relative part of this responsibility that falls on each country and on each individual political or military leader. . . . Even supposing that a general consensus of opinion might be reached as to the relative responsibility of any individual country or man for immediate causes connected with the July crisis of 1914, it is by no means necessarily true that the same relative responsibility would hold for the underlying causes, which for years had been tending toward the creation of a dangerous situation." Vol. II, pp. 548–550.

sional schedules of reparations payments had been fixed in May, 1921—a crushing and senseless burden by any standard, at least three times Germany's physical capacity to pay, according to authoritative estimates made in 1919 by J. M. Keynes[3]—the Government of the Weimar Republic had adopted what appeared to be, and probably was, the only possible policy. This was "fulfillment," meaning a genuine effort to meet the reparations schedules, with the hope of proving good faith and demonstrating the physical impossibility of meeting the schedules. This official policy of the democratic coalition naturally offered a great political advantage to the parties of the Right, and they exploited it fully in their clamorous and sustained attack on the Versailles Treaty.

Then came the Ruhr struggle. After certain temporary adjustments of the reparations payments had been worked out, a conflict arose early in 1923 between Germany and the Reparations Committee of the Allies concerning the delivery of telegraph poles and a small deficiency in coal deliveries. The reactionary Poincaré Government in France treated the matter as a default by a fraudulent debtor, and proceeded to apply sanctions. French and Belgian troops marched in and occupied the Ruhr, the heart of Germany's industrial system, containing 80 per cent of the coal and 80 per cent of the blast furnaces then in Germany's possession. It should be remembered that this action was protested by Lloyd George's Government at the time (and indeed condemned by every political party in England), and that the United States signified its disapproval by withdrawing its troops from the Rhineland; the French people themselves later repudiated Poincaré's policy. The occupation was passionately resented throughout Germany. In the Ruhr itself, the population organized a general strike and non-violent resistance, and a fierce endurance contest ensued. The German Government undertook to provide relief for the striking workers and their families, and to indemnify the private companies. But it was a hopeless struggle, and after eight months Germany surrendered unconditionally.

Perhaps the most important aspect of the Ruhr struggle is that it was the final cause of the wild inflation of the currency. Prices had started rising during the war, and inflation had been proceeding by steps since the beginning of 1919. But it was the cutting off

[3] *The Economic Consequences of the Peace* (New York, 1920), pp. 168–208.

of the Ruhr's industries, combined with the burden of providing relief for its 6,000,000 inhabitants, that finally broke down the German fiscal system entirely. Consequently, that great social disaster was associated in the German people's minds with reparations and with the harsh policy of the Allies, especially France, as well as with the moderate democratic governments in office since the war, which had failed both to appease the Allies and to control the domestic economy.

By the time of the election in May, 1924, conditions had begun to improve materially. The French and Belgian troops had withdrawn from the Ruhr, a new currency had been established, the Poincaré Government had been voted out of office, and the Dawes Committee on Reparations had made a report foreshadowing substantial temporary relief. Consequently, popular discontent had receded somewhat.

Yet the situation was still explosive, as the election figures show. The nationalistic parties of the Right gained another 3,000,000 votes, resulting in a total of over 11,500,000. Included were the Hitler party with 1,900,000 votes, and several small parties with a substantial total. The non-socialist republican parties suffered a further relative decline (especially the Democrats, who had now lost 70 per cent of their 1919 votes), and the labor parties combined again suffered a substantial loss. For the first time, the nationalistic parties, with 39.4 per cent of all the votes cast, had a larger total than either of the other two major groups of parties.

Then there follows a most interesting development, one that throws much light on the German problem. After May, 1924, conditions continued to improve slowly. The Dawes settlement was put into effect by September, and later received the approval of a large majority of the German people. Confidence in the new currency was firmly established. And in the election of December, 1924, there was a noticeable steadying and improvement. The nationalistic parties combined lost some votes, and the Nazis' votes, in particular, were cut in half; while each of the other major groups gained, the Social Democrats in particular making a substantial recovery.

Moreover, this trend back to the parties standing for democracy and international conciliation was continued further in the election of May, 1928. By that time, under Stresemann's wise and skillful management, Germany's foreign relations had shown further im-

provement, marked by the Locarno Pact in 1925 and admission to the League in 1926. Meanwhile, internally Germany had experienced a gradual social and economic recovery—even a moderate prosperity, though a precarious one, since it depended on American loans to offset reparations payments. In May, 1928, the nationalistic parties suffered a substantial loss of votes, while the non-socialist republican parties gained slightly and the labor parties substantially. Once more the labor parties became the largest group, with 40.4 per cent of the total votes.

The essential trends in this series of elections are revealed in the following condensed comparison of the results of January, 1919, May, 1924, and May, 1928:

	January, 1919 (Before Versailles and before failures of Weimar Republic)	May, 1924 (After Versailles, Ruhr occupation, and inflation)		May, 1928 (After Dawes settlement, American loans, reconstruction, and moderate recovery)	
		Results	Change as compared with Jan., 1919	Results	Change as compared with May, 1924
Nationalistic parties:					
Combined votes	4,467,000	11,537,000	+7,070,000	9,242,000	−2,295,000
% of total	14.7%	39.4%		30.0%	
Hitler party votes included	—	1,918,000	+1,918,000	810,000	−1,108,000
Non-socialist republican parties:					
Combined votes	11,897,000	7,335,000	−4,562,000	8,636,000	+1,301,000
% of total	39.1%	25.1%		28.1%	
Labor parties:					
Combined votes	13,826,000	9,937,000	−3,889,000	12,418,000	+2,481,000
% of total	45.5%	33.9%		40.4%	

We may well speculate about how different history might be if it had been possible for economic conditions in Germany to continue improving gradually, or even if they had stayed as they were, for another four or five years after 1928. Germany's political health, to be sure, was still not good, but it was unmistakably improving.

Instead, the depression came. It was felt in Germany earlier than in other countries—before the end of 1928. By the end of 1929, short-term foreign loans were being called for payment, and after the Young Plan loan of June, 1930, the flow of American capital into Germany was shut off completely. Unemployment had started on its fatal rise. By the middle of 1930, Brüning, a conservative Centrist, was governing Germany by decree and attempting to ap-

ply a deflationary policy, which fell with particular severity upon the working class and upon the lower middle class whose savings had previously been wiped out by the inflation.

The outstanding result, in the election of September, 1930, was a huge increase in Nazi votes, from 800,000 to 6,400,000, so that even though the traditional parties of the nationalistic Right lost many of their voters to Hitler, the total for all the nationalistic parties together rose by 3,000,000. The Nazis profited also by a great increase in the total number of voters, the turnout rising materially. This election also marked the high point for the many small new parties; adding together those in the nationalistic group, those in the non-socialist republican group, and those in the small group of all others, they polled a total of over 4,800,000 votes, 13.9 per cent of all votes cast. In the labor group, the Communists gained substantially at the expense of the Social Democrats, presumably because workers considered the Communist party the more nearly revolutionary of the two.

The depression increased in intensity until July, 1932. By that time the registered unemployed numbered almost 6,000,000, the unregistered unemployed an additional 1,000,000–2,000,000, and those receiving only part-time employment a substantial additional number. Economic distress reached a point of extreme severity, and of course the suffering and insecurity were much worse than in our own country because Germany had no accumulation of fat to fall back upon. The moral or psychological crisis was accentuated by the country's memory of defeat and by the record of failure and futility of the Weimar Republic.

It is against this background that we see the tremendous increase in Nazi votes in the July, 1932, election. There was a further substantial increase in the number of votes cast, and the great majority of the young men voting for the first time cast their votes for the Nazis—undoubtedly because Hitler promised them jobs in an economy which otherwise appeared to have no place for them. In addition, former voters flocked to Hitler from practically all parties except the Catholic and labor parties. In particular, the Democratic party (now named the German State party) and the People's party shrank to insignificance, and nearly all of the voters who had previously deserted the old parties to join the dozens of small new ones now poured into the Nazi reservoir, both from the nationalistic Right and from the republican Middle. Within the labor

group, the Communists once more gained at the expense of the Social Democrats.

A comparison of the elections of May, 1928, and July, 1932, throws a little light on where most of the Nazi votes may have come from. The following table summarizes the net changes over this four-year period:

Parties or groups of parties showing net gains		New voters and parties or groups of parties showing net losses	
Net gains:		New voters	6,129,000
Nazis	12,936,000	Net losses:	
Catholic parties combined	1,124,000	Nationalists	2,204,000
Labor parties combined	825,000	People's party	2,244,000
Parties receiving under 100,000 votes each, combined	21,000	Small nationalistic parties combined	1,371,000
		Democratic party	1,134,000
		Small republican parties combined	1,824,000
Total net change	14,906,000	Total net change	14,906,000

It is probably unnecessary to emphasize that the above figures represent *net* changes only. It is safe to assume, for example, that some voters went from the labor parties or the Catholic parties to Hitler, but were replaced by new voters or voters from other parties.

In any case, the Nazis, with over 13,700,000 votes, were now a larger political group by themselves than either the labor parties combined or the non-socialist republican parties combined. The Nazi votes represented 37.3 per cent of the total cast, which was the highest percentage reached at any time before Hitler became Chancellor. In the presidential election in April, 1932, Hitler himself received 36.8 per cent of the popular vote (as compared with 53.1 per cent for Hindenburg), so that this Reichstag election established the high water mark of Nazi strength prior to 1933.

We should do well to remember, before passing judgment on this terrible error by 37.3 per cent of the German voters, that in our own seasoned democracy the voters have made some bad mistakes, under far less trying conditions: in the governorship election in Louisiana in the flush year of 1928, 43.9 per cent of the votes were cast for Huey Long; and in California in 1938 a 45.0 per cent vote was cast for the fantastic fraud known as the "Ham and Eggs Plan."

The two remaining elections are somewhat less enlightening. In November, 1932, after Hindenburg had denied Hitler the chancellorship, the Nazis lost 2,000,000 votes, doubtless including many bandwagon votes. Within the labor group, there was a further small drift from the Social Democratic party to the Communists.

It was January, 1933, when Hitler finally came to power—through a deal made with him by the Nationalists and other extreme reactionaries. In the short interval before the March election, the Nazis arranged the Reichstag fire and an election campaign more gigantic than any previous one. Meetings and publications of the Communists, and also of the Social Democrats, were suppressed, for the most part. What is more important, the campaign of fear began: in the first weeks of 1933 several democratic and laborite leaders were arbitrarily seized and shot or imprisoned, and the rest of them saw that with bad luck their turn might come next; many of them began burning their letters, and the less courageous ones deserted. It is almost certain that some voters began to have misgivings about the secrecy of their ballots in the coming election. When the election took place, there was some evidence of fraud, in the form of multiple voting by Storm Troopers,[4] but this probably did not affect the result substantially. The major factors were fear among the democratic elements in Germany, and encouragement among the reactionary elements, inspired by the Government-sponsored election drive and the fact that Hindenburg had at last given his sanction to Hitler.

The result was less bad than had been generally feared. There was an unprecedented turnout of voters, and the Nazis polled 17,300,000 votes, 43.9 per cent of the total. Although the nationalistic parties together received 53.0 per cent of the total vote, a success with no precedent by any group after 1871 (and to be sure there was not much to choose between the Nazis and the Nationalists), yet it is noteworthy that Hitler was unable even in this election to secure a majority for his own party, a result which he had reason to desire urgently. It is also noteworthy that the Communists, although largely deprived of an election campaign and handicapped by intimidation, lost not much more than 1,100,000 votes, while the Social Democrats lost less than 100,000. The Catholic parties together gained a few votes.

We may now recapitulate the major facts brought out in this re-

[4] See *Le Correspondant* (Paris), 25 Mars, 1933.

view of Reichstag election results of 1919-33, with particular reference to the militarism and aggressive nationalism of the German people:

1. In the first election, before Versailles and before the failures of the Weimar Republic, the German people strongly repudiated militarism and aggressive nationalism, and showed their overwhelming preference for a liberal or progressive democratic republic.

2. By May, 1924, after Versailles, the Ruhr struggle, and the inflation, and after irretrievable errors by the early Weimar Governments, the German people had made a violent swing toward the militaristic and reactionary Right.

3. By May, 1928, after four years of slow reconstruction and economic recovery, they had reversed the previous trend and made unmistakable progress back toward the democratic and non-militaristic line-up of 1919.

4. In July, 1932, under the impact of the depression and mass unemployment, 37.3 per cent of the German voters supported the Nazis. This was the high point of Nazi strength before Hitler became Chancellor.

5. In the first election after Hitler acquired control of the machinery of state, 53.0 per cent voted for the major parties of the extreme Right, all of them definitely militaristic. However, even at this time Hitler's party did not secure a majority of the votes.

In short, the major swings in popular sentiment can be explained largely in terms of the economic, social, and moral hardships—and recoveries—through which the people lived in this period. Beyond this, we may ask how these political reactions compare with what might be expected of a hypothetical average electorate made up of the populations of other leading countries. Considering these election results as a whole, in the light of the handicaps which the German people inherited from their past and particularly in the light of the long-drawn-out ordeal through which they lived during and after the war, there is no evidence that those people have a greater-than-average natural predisposition toward militarism and aggressive nationalism, or a smaller-than-average natural capacity for democratic self-government. There is plain evidence that when social and economic conditions are tolerable, their political tendencies are preponderantly democratic and reasonable—above all, capable of improving.

III. PUBLIC OPINION SINCE 1933

We have no statistically balanced information about the opinions of the German people under Hitler. Numerous plebiscites were held under Nazi administration after 1933, with results approaching 100 per cent in support of Hitler, but these results are meaningless for our purposes. In most of these plebiscites, no real alternative was presented to the voters; at the same time, not merely vigorous campaigns, but also threats and coercion were openly employed to press all citizens to the polls; and the voters' confidence in the secrecy of their ballots was effectively undermined. In addition, there were indications of illegal voting; and there is no reason to doubt that if the Nazis found it necessary the election results were falsified.

What little information we have consists of personal observations and impressions, underground reports, and what can be inferred from official statements. From these it appears quite likely that in the first two or three years of the Nazi régime a majority of the people were captured by Hitler's successes, though there is no scientific basis for any estimates. From trustworthy underground reports and from official disclosures of countless executions and imprisonments, we know that a substantial opposition existed at all times, apparently largest in labor and trade union groups, though no measurements are possible.

Evidence obtained in the course of the past year or so indicates that discontent and disaffection have increased enormously.[5] Probably a large majority of the people have by now lost faith in Hitler and hate the Nazi system, though again there is no basis for quantitative estimates.

One of the commonest preconceptions in the democratic countries is that the youth of Germany, a large proportion of them having been enthusiastic supporters of Hitler in the early days, and all of them having since been drilled in Nazi doctrines and supposedly guarded from all other influences, constitute a core of Nazi loyalty which has not yet weakened and will not weaken for years to come. This belief is not shared by those who know most about Nazi Germany, and is contradicted by carefully verified reports from young men who lived in intimate daily contact with large numbers of Hitler youth in the years before the war.[6] Moreover, it is

[5] See *Inside Germany Reports* (issued by the American Friends of German Freedom, New York), particularly No. 22, June, 1942, and No. 23, Nov., 1942.

[6] See Paul Hagen, *Will Germany Crack?* (New York, 1942), pp. 218–220.

well to remember that the young zealots who marched and sang at the head of Hitler parades in 1930 or 1932 are no longer the youth of Germany, and that their place is being taken by boys whose political lives began in 1939 and who since then have seen nothing but war, and much hardship and senseless slaughter.

IV. CONCLUSIONS

A general revolt seems inevitable sooner or later. Owing to the unequal match of machine guns and panzers versus civilians, it will be difficult or impossible for the people to rise until the armed strength of the Nazis has been destroyed. This is the main reason why the United Nations are bound to pursue their fight until the defeat of German arms is complete—and this time there will be no armistice until Germany is invaded and her armed forces routed and demoralized. However, when that finally happens, whatever remains of the Nazi régime will be overthrown by the German people. Events may then take any of several directions, depending upon the circumstances of the defeat and to a very large extent upon the policies of the United Nations.

What our policies should be is rather apparent from this study of German public opinion. In the field of politics, there are two vital requirements: (1) the army high command, the Junkers, the big industrialists, and all other reactionary or conservative elements whose traditions are those of imperialism and aggressive nationalism, must be prevented from seizing again their former positions of strategic political power in the German state; and (2) at the same time, civil liberties and a free and effective ballot should be extended to all the German people, including minorities and opposition parties. To support any political structure, it is obviously necessary further to establish tolerable economic and social conditions without delay and to provide for an expanding economy with security and opportunity for the individual. Dangerous contrary tendencies may develop as the war ends, but if these objectives can be attained there will be little danger of renewed German aggression in the future. Instead, the rich talents of the German people can at last become productive for the world as a whole.

THE PLACE OF MACHIAVELLI IN THE HISTORY OF POLITICAL THOUGHT

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The chief reason for the lack of intelligibility in a course in the history of political thought is the absence of any standard by which the great writers in the field may justly be compared. The usual course in the history of political thought is thoroughly historical and scrupulously indifferent to philosophical analysis; at best, a semblance of comparative analysis is achieved by simply telling the student that different needs of different periods suggest different and equally valid theoretical constructions. The question of natural law, for example, is handled in something like the following fashion. The Aristotelian notion of natural law is no sooner inadequately in the mind of the student than it fails to survive the downfall of the Greek city states. The student is told that Aristotle's notion of natural law restricted his vision and blinded him to the inevitable growth of the empire of Philip, his own student. The Stoics, whose views were perfected by Cicero, held to a notion of natural law much more in keeping with the needs of a world civilization. The Church adopted the Stoic conception of natural law. Subsequently, after the writings of Aristotle had been discovered, St. Thomas Aquinas wedded natural law to the law of the Church. The Renaissance and Reformation liberated men's minds from the shackles of Mediaeval Scholasticism. The concept of natural law came gradually to be abandoned; it is already repudiated in the writings of William of Occam and Marsilius of Padua, and its disappearance is complete in Machiavelli. Accustomed to the tradition of *1066 and All That*, the student gathers that this disappearance was "a good thing." In the eighteenth century, there is a revival of natural law. But the notion of the social contract school was quite unlike the mediaeval or Roman or Greek notion; it was used in Hobbes, Locke, and Rousseau to justify, respectively, absolute monarchy, limited monarchy, and democracy. By this time the intelligent student is pretty well aware that the chief thing to be had from a course in the history of political thought is the semester credit.

Perhaps in the entire course on the history of political thought there is no dictum more startling to the reflecting student than that Aristotle, whose original treatise on *Politics* included as its first

book his work on Ethics, was the "Father of Political Science," and that Machiavelli, whose achievement was to separate ethics from politics, was the "Founder of the Science of Politics." Evidently it is not for the student to reason why. But should the student possess the high degree of intelligence necessary to discover something not quite compatible here, a certain compatibility can plausibly be established by pointing out that Machiavelli subordinated all things to the common good (which seems to be the thing that Aristotle talks most about), and that Aristotle in the fifth book of his *Politics* gives advice to the tyrant on how to maintain his tyranny (which seems to be the thing that Machiavelli talks most about). The scientific temper, with its healthy caution against too readily accepting the "obvious," having been vindicated by this ready acceptance of the less obvious, we are in a position to go on to the Seventeenth Century. Except that, as we proceed, the student is most likely wondering what, if our explanation has been satisfactory, *is* the difference between Aristotle and Machiavelli. Of course the attitude toward that kind of student is this: If he is that subtle, he should see that the approach of Machiavelli is different from the approach of Aristotle, and that this is why we can say that one is the Father of Political Science and the other is the Founder of the Science of Politics.

But of course we still cannot. I think that there is only one way to make sense out of the history of political thought, and the first step in the process is to assume that the great writers in the field had a certain competence in handling the terms proper to their field of inquiry. In politics (as in any science), the development of the science is possible because fundamental concepts are employed which serve as a basis for exploration into specialized fields of investigation. The acknowledgment of the need for basic concepts does not require on the part of the research man or text-book writer an *a priori* acceptance of any principle of truth; but it does require what research men and text-book writers, in their excessive timidity, confound with the acceptance of any principle of truth. It requires a scrupulous fidelity to the factor of tradition in the history of political thought. By the factor of tradition is meant nothing more than is necessarily implied in any intellectual history. Certain concepts, certain principles, certain judgments are handed down in the course of history, and these concepts, principles, and judgments are either retained or lost, altered or added to. The ac-

knowledgment of the factor of tradition is of primary importance, and from that acknowledgment follows the obligation to understand (not necessarily to accept) the construction of political thought at its beginnings. Only then can the subsequent narration of the history take on significance. Such a procedure will also have the minor merit of enabling the student to understand why an author has one sentence follow another; and it is the least service of a teacher to lift the intelligence of the student to the point where intelligence can begin to operate.

The treatment which Machiavelli's works receive at the hands of scholars is especially illuminating. Since more than a century ago, the work of sincere scholarship in examining the complete writings of Machiavelli has been the cause of a sharp reaction against the early conception of Machiavelli as being merely a purveyor of Medicean poison. The conclusion generally agreed upon by sound scholarship has been reached by an examination, not of *The Prince* alone, but of all Machiavelli's works. This procedure involves the principle which I have suggested for use in the general work of interpreting the whole development of political thought. For I have said that it is necessary for us to have a full understanding of the beginnings. But in the work of any one man the reading of all his writings constitutes a beginning of our knowledge in the sense that the parts of his work become intelligible only in view of the whole. The word "beginning" is here used analogously, but the common element in the term can be appreciated by considering that in both cases what is signified is the first point from which a thing comes to be known.

I have said that sound scholarship has given us an admirable Machiavelli. But in fact an admirable Machiavelli has emerged from a scholarship that has been found only in the work of applying itself to a comparative reading of Machiavelli's own works; so that I have said neither that the scholarship has been sound, simply speaking, nor that Machiavelli was admirable. The judgment that *The Prince* has to be interpreted in the light of the *Discourses on Livy* is very sound; for, as Professor Allen has said, "the reverse process can lead to nothing but confusion."[1] Limiting oneself to the problem of understanding Machiavelli in his own terms, it follows that the *Discourses* remains utterly unintelligible if we take *The*

[1] J. W. Allen, *A History of Political Thought in the Sixteenth Century* (The Dial Press, Inc., New York, 1928), p. 464.

Prince as representing Machiavelli's real views; whereas if we read *The Prince* in the light of the *Discourses*, *The Prince* can be made to have at least a partial and defective sort of intelligibility. The conclusion that is reached by this comparison of texts is that Machiavelli valued above all things the common good realized by a free people, and that his *Prince* was written for the purpose of eliciting the aid of a strong man in bringing the Italian people out of their condition of political corruption.

That is indeed the sense that must be made out of Machiavelli, and I have no quarrel with the conclusion *as drawn:* for it is drawn only by doing one's best with Machiavelli's texts. But the point for quarreling with the conclusion is this—that there remain grave difficulties in Machiavelli's writings about which nothing can be done so long as the investigator remains with the texts of Machiavelli. This in itself should have suggested that a genuine understanding of Machiavelli's place in the history of political thought can be reached only by making a comparative examination of his use of terms common to the past tradition of political thought and the use of those terms by preceding writers in the tradition. The essential difficulty in the way of understanding, even partially, *The Prince* in the light of the *Discourses* is Machiavelli's basic and pervading notion of man's nature as essentially anti-social and anarchical. After remarking that "Machiavelli's sympathies were wholly republican," and that "one of the finer traits in his cynical and repellent character is his faith in the people," Professor Hearnshaw inevitably adds: "a faith . . . not very easy to reconcile with his pessimistic estimate of individual human nature."[2] It is in the *Discourses* that Machiavelli gives us as his own the view of the origin and nature of society expressed in antiquity by Thrasymachus and Glaucon: the state conceived of as a conventional arrangement arising out of the recognition that men by nature believe that the greatest good is to act unjustly with impunity and that the greatest evil is to suffer injustice without redress.[3]

Now these basic "premises," as Professor Allen calls them, are overlooked in the work of rehabilitating Machiavelli; and I wish to make clear my position that sound scholarship is perfectly justified

[2] F. J. C. Hearnshaw, *Social and Political Ideas* (New York, 1932), p. 107. More than this, of course, Machiavelli insists that evil is radical in man. *Discourses*, I, 3; *The Prince*, ch. 23. [3] J. W. Allen, *op. cit.*, p. 452.

in omitting them, for the simple reason that if they are taken into account it is utterly impossible to make anything out of the *Discourses*. That is why I have said that I can agree with the conclusion of modern scholarship about Machiavelli *as that conclusion is drawn;* for again, it is drawn only by doing one's best with Machiavelli's texts. But now if we ask ourselves in what this rehabilitation of Machiavelli essentially consists, the answer can only be that it consists in a residue of traditional concepts which in Machiavelli are drained of their intelligible content. For if in one sense Machiavelli must be interpreted as espousing liberty and virtue and justice, there remains the fact that these terms receive their worth and significance from nothing which Machiavelli wrote. Their value in the rehabilitated Machiavelli rests on the assumption (which in the conclusion of modern scholarship is left unexamined) that these terms in Machiavelli's works retain in some way their traditional force when they have lost their traditional meaning.

It should now be more evident what is the measure of my agreement with the findings of modern scholarship, and what is the basis of my criticism of its ultimate soundness. It stops short just at the point where it can say something significant about Machiavelli. Having extracted from Machiavelli the only reading that allows all of his writings to make sense together, and having observed that this reading of Machiavelli depends on conventional or traditional notions which Machiavelli merely employed without discussing, the inquirer is obligated to two further steps: first, to make an examination of the traditionally accepted sense of such terms as common good, virtue, liberty, etc., and secondly, to return for a final reading of Machiavelli with the intention (and now the ability) of discovering, from all that Machiavelli had to say, whether his verbal adherence to the traditional concepts carries with it an intelligibility equal to that attaching to these concepts as they were traditionally taken. There can be no legitimate protest against such a suggestion, for it is merely a suggestion that we should discover whether that is in fact true which has in fact been assumed.

In his scholarly edition of Machiavelli's works, Professor Gilbert seems to feel that it is sufficient vindication of Machiavelli's reputation to point out that the whole intention of *The Prince* was to secure a man strong enough to establish the common good of the Italian people.[4] As we have seen, the work of modern scholar-

[4] *Machiavelli, The Prince and Other Works*, ed. Allan H. Gilbert (Chicago, 1941).

ship has been to show that *The Prince* is not a manual for tyrants but an appeal for a ruler powerful enough to bring the Italian people out of extreme political corruption.[5] But to conclude, with the implication of saving Machiavelli's works from a bad reputation,

Professor Gilbert writes: "The chief [of Machiavelli's] political ideas is to be found in the traditional political conception of the common good . . . " (p. 15).

[5] In "The End of Machiavellianism" (*Review of Politics*, Jan., 1942), M. Jacques Maritain examines the inner logic of Machiavellianism and shows how its internal principle ultimately works the destruction of states. In the end, the argument of M. Maritain and the argument presented in this paper are in agreement. But M. Maritain starts out with a Machiavelli whose prince rules for the sake of his own power, and who, "as a cynic, operates on the given moral basis of civilized tradition." Subsequent history gives us two forms of Machiavellianism. The first of these M. Maritain calls "moderate Machiavellianism"; this is characterized by the preservation in some way—contrary, M. Maritain says, to Machiavelli's own thought—of the concept of common good. The second form of Machiavellianism is "absolute Machiavellianism." This form of Machiavellianism comes about when the disproportion between Machiavellian means and traditional common good (characteristic of moderate Machiavellianism) leads to a perversion of the idea of common good itself (*ibid.*, p. 11). Thus for M. Maritain, Machiavelli's prince does not employ Machiavellian means to establish common good as traditionally understood; this is what moderate Machiavellianism attempted. Nor does authentic Machiavellianism have any interest in any kind of common good, whether genuine or perverted. Machiavelli's prince rules for the sake of his own power, and operates on, but has no care for, the given moral basis of civilized tradition.

The point of departure for this paper is the view, taken by modern scholarship, that *The Prince*, interpreted in the light of the *Discourses*, was written for the purpose of securing a man powerful enough to establish the common good of the Italian people. Assuming the justice of this verdict of modern scholarship, the argument here examines the notion of common good in the light not only of the *Discourses*, but of the rules which Machiavelli prescribes for his prince. It is then found to be not quite true to say that Machiavelli had no conception of common good. Rather, the notion of common good which he had was derived from an admiration for the virtues of Republican Rome; but because of his failure, as M. Maritain himself points out, to appreciate the realist and existential character of moral science, he was intellectually powerless to restore the classical concept of political virtue to its metaphysical value. Thus, conceiving moral science as dealing with "the beautiful rules of some Platonist and separate world of perfection," Machiavelli finds the remedy for the corruption of states to lie in non-attachment to the principles of morality. Hence the notion of common good which is found in Machiavelli is already perverted by its inner principle of evil. The perversion of the concept of common good, which M. Maritain ascribes to a later "absolute Machiavellianism," is already found in an incipient form, but perfectly generated in Machiavelli himself; and it is a conception of common good opposed to the idea of rule for the sake of the ruler.

Although M. Maritain does not explicitly allow that Machiavelli had any interest in common good, I think that the argument which I here propose is suggested by him when he says that the divergences between *The Prince* and the *Discourses* "are real," but "remain quite secondary" (*ibid.*, p. 8, n. 6). By relating these differences to the literary genus of the two works, M. Maritain adequately accounts for their remaining quite secondary, but not for their being real.

that Machiavelli loved the common good even more than his soul[6] is not to conclude enough. "Common good" is presumably used, as I have said, by Machiavelli in its traditional sense; for it is nowhere analyzed. But a reading of Machiavelli in the light of the great works in the tradition will show us that Machiavelli's employment of the concept "common good" is purely ornamental; not that it is altogether valueless, because it has for Machiavelli the value of a sign or symbol, completely emptied of its content; and for Machiavelli, as for all pure political artists, this is no small merit.[7]

There are two basic notes in the Graeco-Mediaeval conception of common good. The first of these Machiavelli adopts; it is the requirement that rule, if it is to be good, must be in behalf of the commonalty and not for the sake of the ruler. It does not follow that anything done in behalf of the commonalty is good; it follows only that it is common. The second note in the conception is that the good of the commonalty, although accidentally different from state to state and from time to time, has its roots in man's common nature, and this common nature is *rational animal*. The traditional understanding of "common good" is wholly lost on anyone who fails to see that it depends on the whole traditional construction of the moral and intellectual virtues, and that these virtues are founded on an analysis of the relation of the non-rational principle to the rational principle of the soul. It is clear that if Machiavelli is outside the tradition on the whole question of the foundations of moral law, it is altogether irrelevant to attempt to rehabilitate him by citing his reference to the primacy of common good.

Now it is apparent that Machiavelli is altogether outside the tradition of political thought on the question of the foundation of the virtues. I should like to indicate the basic departure from the traditional psychology, a departure which makes his concern with liberty, virtue, common good, and justice perfectly meaningless—meaningless from the point of view of tradition; strictly speaking, that is all that is necessary to insist on, because the rehabilitation of Machiavelli rests on the assumption of Machiavelli's fundamental concurrence with the traditionally accepted sense of concepts like common good, etc.

I have said that the whole traditional construction of the moral

[6] "I love my native land more than my soul." Letter of April 16, 1527. Cited in Gilbert, *op. cit.*, p. 17, par. 41. [7] Berlin papers please copy.

and intellectual virtues, which are the roots of common good, is founded in an analysis of the relation of the non-rational to the rational principle in man. Now Machiavelli says very clearly in what for him this relation consists. "You must realize, then," he writes, "that there are two ways to fight. In one kind the laws are used, in the other force. The first is suitable to man, the second to animals. But because the first often falls short, one has to turn to the second. Hence a prince must know perfectly how to act like a beast and like a man. . . . To have as teacher one who is half beast and half man means nothing else than that a prince needs to know how to use the qualities of both creatures."[8] For Machiavelli, the animal and the rational nature in man are two unrelated principles of action. We must be careful to notice the full implications of this view. By man's animal nature, man acts like a beast, and by his rational nature he acts like a man; but observe how this dichotomy leaves animal force as the ultimate principle. Man acts like a beast by virtue of his animal nature. But to *know how* to act like a beast requires more than mere animal nature; it requires intelligence, it demands the exercise of the rational principle in behalf of animal nature. To have knowledge of how to act like a beast means to be clever at being a beast, to be more beastly than any beast. This is why Machiavelli's prince can have the qualities of several beasts at once: he can be lion *and* fox precisely because he is a man. Thus if it is by virtue of man's animal nature that he acts like a beast, he acts like a man by virtue of his capacity—thanks to the rational principle—for making prudent use of the conduct of animals.

This is inevitable in Machiavelli. Failing to perceive that man is substantially *rational animal*, he fails to see that the animal passions and appetites which are in man are ordered under the rational principle. He fails to see that there is a *right* desire, a *right* fear, a *right* use of force, all of which are properly attributable to man as man. Machiavelli thinks that to be forceful and to be fearful is to act in a mode suitable not to man but to beasts; and recognizing that force and fear are necessary, he advises his prince to know how to act according to animal passion.[9] But the prince is not to act

[8] *The Prince*, ch. 18.

[9] There is to be noted here that complication which M. Jacques Maritain has pointed out. It is the complication arising from Machiavelli's "rough and elementary idea of moral science," which makes him fail to understand its "realist, experiential,

simply according to animal nature; he must know how to make use of the qualities of his rational nature as well as of his animal nature. "The one without the other will not last long"[10] That is, he tells us, the qualities of pure animal nature alone will not long endure; nor will the prince survive who governs according to the dictates of the rational principle alone. The successful prince must know how to use both qualities: animal nature must be served by the rational principle. Thus the prince who knows how to act like a beast and like a man accomplishes his rôle by coupling bald animal force and fear with cunning and intelligence.

This is very clear to us as soon as we notice what he says about law and force. Law, he tells us, is an instrument proper to man, and force is an instrument proper to animals.[11] But if law is proper to man, and if man acts like a man by virtue of his ability to make prudent use of animal conduct, it should follow that law is nothing more than a superior kind of force. And it does follow; for Machiavelli clearly establishes the point that the essence of law is force when he says that law is one of the two ways of fighting, of which force is the other. ". . . There are two ways to fight," he says; "in one kind the laws are used and in the other force."[12] Therefore the laws, which, according to Machiavelli, are the product of man and not of animal, are one of the ways of fighting. Here we see Machiavelli's sophistical notion of the foundation of society in a coercive contract entered into for the purpose of forcibly preventing man's natural tendency toward anarchy from expressing itself. So the element of force is the essential element in law, which is to say that it is the determining element in man *qua* man and not merely in man *qua* animal. And we have already observed that as force is made the determining element of the rational principle, the rational principle is put at the service of force as exemplified by man's animal nature: What is Machiavelli's fox but the "virtue" of prudence put in the service of the lion?

It is evident how the traditional concept of virtue undergoes a transmutation into that "*virtu*," signifying skillful force, which dominates *The Prince*. In the common tradition up to the time of

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and existential character. Accordingly, what he calls vice and evil, and considers to be contrary to virtue and morality, may sometimes be only the authentically moral behavior of a just man engaged in the complexities of human life and of true ethics. . . . " *Op. cit.*, p. 5.

[10] *The Prince*, ch. 18. [11] *Ibid.*, ch. 18. [12] *Ibid.*, ch. 18.

Machiavelli, the notion of common good was rooted in a conception of man's rational animality which held to the view that the only part of the non-rational principle which did not in any way share in the rational principle was the nutritive or vegetative activity; and that the animal part of the non-rational principle participated in the rational principle by being regulated by it. This control of the non-rational principle by the rational principle—the work of the practical reason—was understood as issuing in the moral virtues; and in the tradition of political philosophy up to Machiavelli, the notion of common good was predicated on the moral virtues.

Moreover, in the common tradition moral virtue was understood as being constituted in its species by its position as an intermediate between the extremes of excess and defect; so that, for example, courage was opposed to both rashness and cowardice. With respect to courage, one can be morally bad by being either rash or cowardly; for these two contraries constitute a single opposite to the kind of goodness in question. Now in what does Machiavelli's *virtu* consist? It seems to consist mainly in a habit of mind enabling one skillfully to turn "in whatever direction the winds of Fortune and variations of affairs require";[13] so that the most artistic aspect of the prince's imitation of virtue is seen in his ability to practice now one extreme and now the other extreme lying outside the intermediate, as when one would be rash and audacious at one moment and cowardly at another.[14]

Machiavelli's departure from the traditional psychology suggests to us what his notion of common good was; and that is the determining factor in the ultimate evaluation of his thought. Once we have discovered from a reading of the *Discourses* that Machiavelli's chief concern was the good of the people, it becomes possible to discover from the rules which he lays down for the behavior of his prince how Machiavelli conceived this common good.

The prince must be ready to be fox and lion, must be ready to sacrifice in his own life the principles of morality for the preservation of his rule. As Professor Gilbert, reading *The Prince* in the light of the *Discourses*, puts it: "There are open to the prince two

[13] *The Prince*, ch. 18.

[14] Machiavelli insists that the prince guard above all against a *reputation* for cowardice. *The Prince*, ch. 19. It is evident that the successful prince will find opportunity for acts of cowardice, but will avoid getting a reputation for cowardice.

courses: one, devotion to the principles of morality; the other, devotion to the good of his people . . . The prince, then, must choose . . . For Niccolo there is no debate. The duty of the prince is to his people."[15]

Now the first question that may legitimately be asked is whether the prince, in sacrificing his own good for the good of the people, is doing so in order that the people may have the same kind of goodness which he is sacrificing for them. Evidently the principles of morality are considered in the context to be something good; for the prince is said to "sacrifice" them, and one does not speak of making sacrifices of bad or indifferent or useless things. Are we to conclude, too, that the prince is making this sacrifice so that the people may have this kind of goodness—moral goodness? Or is it that they may have some other kind of goodness? But it is scarcely possible to conclude that the prince is giving up the principles of morality so that the people may have moral goodness. For, in the first place, such procedure would give the people a bad example, and if the intention is to bring about moral goodness in the people, the prince who sacrificed morality for that end would scarcely be prudent; and Machiavelli's prince is above all things prudent. In the second place, Machiavelli is convinced that men are not only bad but radically bad, so that it is difficult to see how Machiavelli's conception of common good can have anything in common with those principles of morality which the prince is said to "sacrifice" for this good. Yet the common good is clearly a greater good than the principles of morality, for these latter are sacrificed to the former, and things are not sacrificed except for a greater and nobler good. Now actually the prince, who is the leader of his people, is before all else the exemplar of the common good; and since the common good is a greater good than the principles of morality, it follows clearly that the proper goodness of the prince consists precisely in not being attached to the principles of morality. *Not being attached to the principles of morality is the real and exemplar cause of the common good;* thus the common good is itself conceived wholly in a-moral terms. It is conceived in terms of a public spirit predicated upon the same desperate and cunning force which we have seen to be at the root of Machiavelli's social theory. This cun-

[15] Gilbert, *op. cit.*, p. 19. Professor Gilbert writes: " . . . Machiavelli did not present his ultimate principles in *The Prince*, but expresses in terms of the ruler alone what he intends to apply to the whole people." *Ibid.*

ning use of force we have seen also to be the most artistic aspect of the prince's imitation of virtue; for it imitates the intermediate position of virtue by a use of the two extremes (and not of one only) of which true virtue is the intermediate.

This conclusion with respect to Machiavelli's conception of the common good is evident, too, from the historical point of view. For Machiavelli's book is in the tradition of treatises *de regimine principum*. The treatises of his predecessors insisted on a virtuous prince because he was the exemplar of a common good predicated on the virtues. Machiavelli is altogether within the tradition in making his prince the exemplar of his people's good; he quite naturally has the exemplary quality of his prince consist in knowing how not to be good, because his prince is the exemplar of a common good predicated on the judgment that man by nature radically tends not to be good. In Machiavelli, the notion of common good is exemplified for us in the prince who is its exemplar: it is the same *virtu* which society naturally and the prince artistically produces.

The importance and the redeeming value which modern scholarship attaches to Machiavelli's statement that the prince must sacrifice all to the common good rests on an ambiguity which deceives precisely because of the moral quality traditionally attached to the term. Once that ambiguity is resolved—and it is resolved ultimately in terms of Machiavelli's departure from traditional psychology—it becomes evident that concepts like "common good" and "virtue" can have for Machiavelli only an ornamental value—can serve, in the *Discourses*, only as a sign or symbol.[16] Let it indeed

[16] M. Jacques Maritain remarks that "The *Discourses* . . . owed it to their rhetorical and academic mood as well as to Roman antiquity to emphasize the republican spirit and some classical aspects of political virtue." *Op. cit.*, p. 8, n. 6. Taking Machiavelli from the point of view primarily of *The Prince*, M. Maritain holds that the conception of common good had no place in Machiavelli's thought. "He knows that no political achievement is lasting if the prince has not the friendship of the people, but it is not the good of the people, it is only the power of the prince, which matters to him in this truth perversely taught" (*ibid.*, p. 8). And again, speaking of "moderate Machiavellianists," M. Maritain says that in preserving or in believing that they were preserving in some way the concept of common good, "they were unfaithful to their master . . . " (*ibid.*, p. 11). Assuming that the *Discourses* compel us to admit, with Professor Gilbert, that the chief of Machiavelli's political ideas is to be found in the political conception of the common good, then even from M. Maritain's analysis of Machiavelli's thought as contained in *The Prince* it is possible to show how some conception of common good can be ascribed to Machiavelli. Viewing Machiavelli as "a cynic operating on the given moral basis of civilized tradition," M. Maritain says that when Machiavelli "writes that the prince must learn how not

be said that Machiavelli's one ambition was to have the Italian people brought from a condition of corruption to the healthy condition of a republic; let it be fully understood that when Machiavelli expresses the opinion "that it would be very praiseworthy for a prince to possess all of the qualities that are considered good,"[17] he refers to the traditional understanding of virtue. But that virtue as traditionally understood had any constitutive rôle in his notion of common good, or that his writings can be taken as accepting the genuine traditional sense of the virtues, are conclusions precluded by his premises on man's nature and the nature of society.

The *Discourses*, with their concern for the common good, and peace and justice and the republican spirit, do not in any way show a modification of Machiavelli's basic premises. Indeed the Machiavellian notion of *virtu* informs all the specific virtues in much the same way as Aristotle's virtue of practical reason informs all the other virtues. Throughout the *Discourses*, the one factor which Machiavelli insists on as the basis of the common good of a whole people is that combination of boldness, desperate will, and intelligence which signify *virtu*. "Lack of public spirit appears to be the chief symptom of what [Machiavelli] calls corruption."[18] What was it that Machiavelli thought distinguished the ancient lovers of liberty? That which characterizes them above everything is their spirit and vigor of action; that, indeed, which is the mark of a free

to be good, he is perfectly aware that not to be good is to be bad" (*ibid.*, p. 7). But as M. Maritain has observed in describing the first complication which arises in the case of Machiavelli himself, Machiavelli's notion of good was inadequate and fantastic: "The man of Ethics appears to him as a feeble-minded and disarmed victim . . . of the beautiful rules of some Platonist and separate world of perfection" (*ibid.*, p. 5). It is true that Machiavelli knows that not to be good is to be bad, but because of what M. Maritain calls his failure to understand the realist, experiential, and existential character of moral science, *Machiavelli thinks that goodness has been the cause of the corruption of states*, and that the cause of that vigor and skill and spirit which he equates with political health is to be found in non-attachment to the principles of morality.

It is precisely energy and intelligence and spirit that are lacking to moral virtue as Machiavelli conceives virtue; and, *per contra*, it is precisely these qualities that constitute Machiavelli's *virtu*. It follows logically that this *virtu* can be practiced only by one who is not attached to the principles of morality. Thus the healthy condition of a people—the condition to which the prince as exemplar cause of this kind of common good is to bring the Italian people—is conceived in terms of power and spirit and reckless daring. And the ultimate and exemplar cause of this kind of common good lies in the prince's (and the people's) non-attachment to the principles of morality. But it is a *common* good that Machiavelli's seeks—the good of the Italian people and not of the prince alone.

[17] *The Prince*, ch. 15.

[18] J. W. Allen, *op. cit.*, p. 457.

man is a spirit of savagery. Speaking of the value of religion in inculcating a free spirit, Machiavelli says of the ancients that their acts of sacrifice, "full of blood and ferocity," were savage spectacles and made men become similarly savage.[19] "Ancient religion made [the highest good] consist in greatness of spirit, strength of body, and in all other things likely to make men very courageous."[20] Speculatively, he does not deny Christianity (indeed he says that it "showed us the truth and the true way");[21] nor does he rest the chief blame for the destruction of republics on Christianity, but on the power of the Roman Empire. What, then, is his argument? It is that the failure of freedom has been due to the failure to inculcate *in the people* a fighting spirit, a spirit of ferocity and great courage. And to what end is this liberty? It is ordained to the acquisition of power, but power for the people; for "it is easy . . . to see whence the love of liberty has sprung, since states have never increased in dominions or in wealth save while they lived in liberty."[22] In the light of the *Discourses*, Machiavelli's prince is clearly seen as an artist whose work it is to bring the people out of their lethargic state, out of their weak corruption; *and as an artist the prince imitates nature*: the virtues of the prince are the *virtu* which Machiavelli conceives as the desirable thing in a whole people. For are not the people weak and corrupt because they do not know how to take the part of lion and fox? The bad prince takes advantage of their weakness and he acts the rôle of lion and fox for his own benefit; the good prince acts the rôle of lion and fox for the sake of the common good, for the instruction and education of the people in *virtu*.

Professor Allen's statement of the verdict of modern scholarship on the problem of understanding Machiavelli is enlightening. He declares: "If we assume that, in the *Discorsi*, Machiavelli expressed, however fragmentarily, his real views, we can understand the *principe* and see it as, at bottom, consistent with those views."[23] It should be noticed, as Professor Allen indicates, that Machiavelli's real views are expressed *fragmentarily* in the *Discourses*, and that

[19] *Discourses*, II, 2. [20] *Ibid.*

[21] What Machiavelli meant here is at best doubtful, but perhaps the meaning is that which is conveyed in the following extract from this letters: "For years I have never said what I believed, nor ever believed what I have said; and if it sometimes happens that I tell the truth, I conceal it among so many lies that it is hard to find it." *Familiar Letters*. In Gilbert, *op. cit.*, p. 260.

[22] *Discourses*, II, 2. [23] J. W. Allen, *op. cit.*, p. 464.

The Prince is at bottom consistent with those views. What Professor Allen means, of course, is simply that "Machiavelli conceived of 'popular' government as a character of the healthiest, most vigorous and lasting type of State and of arbitrary government of a Prince as a desperate remedy for corruption."[24] There can be no reason for denying that conclusion. But if we carry out the work of interpreting Machiavelli's writings from the point where modern scholarship leaves off, and attempt to see the value of this conclusion in the light of the past tradition in political philosophy, the observation of Professor Allen that *The Prince* is at bottom consistent with the views expressed in the *Discourses* takes on a truly profound significance. For then, I think, it becomes unmistakably clear not only that *The Prince* is at bottom consistent with the views so fragmentarily expressed in the *Discourses*, but that in fact *The Prince* is at the bottom of the views expressed in the *Discourses*. The evil in Machiavelli is not, as was long commonly thought, that he favored the rule of a despot, but it is that the rule of a republic which he favored was no different from the rule of a despot.[25] The aura of virtue which surrounds his discussion of republics is merely the reflection of the antique past, a past whose intellectual and moral tradition had no real meaning for Machiavelli. This is not to say that the classical aspects of political virtue were uninfluential with Machiavelli. It was precisely as something influential, as something bringing themselves to bear, that the vir-

[24] *Ibid.*, p. 465.

[25] The parallel of the Hitler régime suggests itself. Hitler has a thoroughly perverted conception of common good, but it is not quite true to say that Hitler does not think that he is working for Germany's common good. The purpose of the Nazi state has been said by Hitler to consist in the organization of "a community homogeneous in nature and feeling." (*Mein Kampf*, trans. Alvin Johnson and others, New York, 1939, p. 164). And again: " . . . it is not the highest aim of man's existence to maintain a state or government, but to conserve its national character. . . . Human rights are above State rights" (*ibid.*, pp. 104–105). "The basic conclusion, then," writes Hitler, "is that the State is not an end, but a means" (*Mein Kampf*, trans. Stackpole Sons, New York, 1939, p. 379).

"Even those who are hacking at democracy," writes Professor Charles E. Merriam, "cannot escape its implications. In Germany and Italy today, why do they not abolish the vote? Why do they not abolish the forms of representation and consultation? Why do they profess their solicitous regard for reflecting the people's will and interest? Why does Hitler speak of 'a true Germanic democracy'?" (*What is Democracy?*, University of Chicago Press, Chicago, 1941, p. 7). The reason "why" is that Hitler has a purged and pure and Machiavellian love for *die Einheit Deutscher Seelen*. Obviously what Professor Gilbert says of Machiavelli may be said of Hitler: "The chief of his political ideas is to be found in the traditional political conception of the common good . . . ." (*Op. cit.*, p. 15.)

tues of Republican Rome, like stars in some ethical firmament, held Michiavelli fascinated, his cap in his hand, his mouth open, himself for once understanding nothing—nothing except (counsellor, strategist, teller of fortune that he was)—politico-astrological signs indicating a "return to the future" for his beloved Italy.

It seems to me that with respect to any intellectual history we achieve only a very partial understanding of the writings of any one man if, when he uses terms common to tradition, we do not examine in the light of that tradition all that he has to say. The reading of Machiavelli's complete works by modern scholarship puts him in substantial harmony with traditional aspirations of political philosophy; as Professor Allen says, *The Prince* is at bottom seen as consistent with the traditional concepts which give the *Discourses* their flavor of virtue. But Machiavelli was himself quite aware that for the limited purposes of *The Prince*, at least, he was departing from the principles of his predecessors.[26] Modern scholarship accepts this departure as being merely incidental to the purpose of *The Prince*. That it was, on the contrary, basic to the whole political thought of Machiavelli does not become evident from the light which the *Discourses* casts upon *The Prince*, but it does become so when all of Machiavelli's works are read in the light of the writings of his predecessors.

Aristotle remarks in his *Politics* that there is a measure in which the people are better judges of law than the lawmaker, for the effect of law is, as it were, to measure the action of people and therefore they can feel the pinch. In a similar way, it seems that a measure of competence in judging the history of political philosophy should be conceded to the student; the student's judgment does not come from scholarly competence, but from sheer common sense. Scholarly competence is the ultimate judge, but, like the wise lawmaker, it should not ignore common sense. And the common sense with which a student approaches the study of political philosophy suggests to him that intelligibility in the history of ideas rests upon the existence of some standard of comparison. If we take this standard to involve fidelity to the factor of tradition, we ought to be able to produce a more nearly genuine reading of political thought, a reading that will succeed in doing something other than baffle the intelligence.

[26] *The Prince*, ch. 15.

STATE CONSTITUTIONAL LAW IN 1942-43*

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I. GOVERNMENTAL ORGANIZATION AND PROCEDURE

Delegation of Legislative Power: To the Federal Government. The rapidly growing practice of making state agencies which administer social security laws responsible for bringing them into and keeping them in conformity with the federal Social Security Act came under review by the Washington supreme court. Immediately following adoption of the Senior Citizens Grants Act as an initiative measure in November, 1940, the federal Social Security Board began withholding the matching funds on the ground that the flat exemption of specified items of an applicant's income and resources failed to comply with the requirements of the national act. After three and a half months, the state administrators yielded to the persuasion of the Social Security Board and issued rules which in effect nullified the federally objectionable features, and at the same time detailed how the items formerly exempted were to be considered. A divided court sustained both the rules and the law.[1] The majority concluded that the Washington law was intended to be construed in harmony with the federal act, as that act is amended and interpreted by its administrators. Accordingly, they viewed and approved the delegation chiefly as one which authorized the local administrators to declare certain portions of the act inoperative if they found them in conflict with the federal law. The situation was declared to be one in which "the Legislature enacted a statute under which the executive determines some fact or status upon the existence of which the operation of the statute is to depend." This theory, of course, makes the function more judicial than legislative, as was pointed out in the dissenting opinion. But the theory completely ignores the fact that, after suspending the proscribed sections, the state administrators wrote their own set of definitions and rules, which were then instituted as a budgetary system. Also ignored was the fact that the Washington welfare department received its decisions, both judicial and legislative, from the national Social Security Board, and that consequently the delegation to the state department was actually a delegation to the federal government. Practical considerations necessarily weighed heavily in the result; for to have reached a contrary judgment would have thrown the whole fiscal burden of old age assistance on the state.

Delegation of Legislative Power: To Private Groups. A declaration in an

* Howard Jay Graham, research fellow, University of California, gave invaluable aid in the preparation of this article.

[1] Morgan v. Department of Social Security, etc., 127 P. (2d) 686 (Wash., July, 1942).

elaborate San Francisco milk ordinance that "certified milk is market milk which conforms to the rules, regulations, methods and standards . . . adopted by the American Association of Medical Milk Commissions and must bear the certification of the Milk Commission of the San Francisco County Medical Milk Society," was held to be constitutionally unobjectionable despite the fact that the American Association of Medical Milk Commissions is made up of local milk commissions whose members are private medical men selected by the practitioners of the locality.[2]

Separation of Powers. In one of the first cases directly involving the power of a local legislature to subpoena the chief executive of a municipality, the New York court of appeals concluded that "the theory of coordinate, independent branches of government has been generally held to apply to the national system and to the states but not to the government of cities."[3] Specifically, the court ruled that the New York City council, acting under charter-confirmed powers of investigation, might subpoena a special report prepared for the information of the mayor. The fact that the charter made the mayor the chief executive and the council the local legislature, was "not enough," in the eyes of the majority, "to entitle the Mayor to invoke immunities . . . accorded the executive under the Federal plan of government." A sharp dissent by the Chief Judge relied heavily on the classic dicta in the case of Springer v. United States, and argued that to permit the council's investigational powers to be extended to such lengths might eventually result in hamstringing a responsible executive. The dissent thus pleaded for separation of powers as a principle of the construction of municipal charters on the grounds of the political and governmental values of the doctrine.

Direct Legislation. In an important decision involving the method of constitutional amendment by initiative, the Missouri supreme court ruled off the November, 1942, ballot a proposed amendment which would automatically have appropriated 29 million dollars a year for old age pensions and for the support of dependent children. Submission of the measure to the electorate was enjoined on the procedural ground that it failed to disclose the conflicting constitutional provisions which it proposed to change. The decision turned on the question of whether a 1920 constitutional amendment which restricted constitutional change to the methods specified therein, or to those "otherwise provided in this constitution," adopted earlier legislation which had been passed under express constitutional authority and which had been judicially construed as requiring such disclosure. Relying on the usual variety of extrinsic aids, the court found that the amendment did adopt the legislation as construed.[4]

[2] Natural Milk Producers Ass'n. *et al.* v. City and County of San Francisco *et al.* 124 P. (2d) 25 (Cal., Apr., 1942).

[3] LaGuardia, Mayor, v. Smith *et al.*, 41 N.E. 153 (N. Y., Mar., 1942).

[4] Moore v. Brown, Secretary of State, 165 S.W. (2d) 657 (Mo., Nov., 1942).

Organized labor in Massachusetts sought to place on the ballot at the 1942 election an initiative measure relating to a state fund for workmen's compensation. When the state ballot commission rejected the petitions for noncompliance with the constitutional requirement of 20,000 signatures of qualified voters—more than 5,000 signatures having been found fraudulent—it was argued (1) that the section of the statute defining the commission's powers in regard to fraudulent signatures exceeded the powers granted to the legislature by the constitutional section relating to initiatives, and (2) that the section was unconstitutional for lack of federal and state due process, in that it failed to provide proper notice and hearing. Both arguments were rejected by the court, the latter on the ground that signers whose signatures were eliminated as fraudulent had no private rights in the matter, but only public rights in common with all citizens.[5]

Elections: Exclusion from Primaries. A flagrant legislative attempt to bar the Communist party from participation in primary elections because of its name, foreign affiliations, policy of violence, and small size was frustrated by the supreme court of California in a unanimous decision. A forty-two-year-old provision of the constitution authorized the legislature "to determine the tests and conditions upon which . . . political parties . . . may participate in . . . primary elections." Earlier decisions having subjected this clause to the rule of reason, the court thought it unreasonable to suppose that there was anything in a name, whether it be the name of the party itself or of the "Third Communist International," which could justify such an attainder. This section was also stricken as special legislation which endeavored to determine that a particular group had violated the policy of the statute.

Language that disqualified the party for affiliating "by any means whatsoever" with "any other foreign agency, political party, organization or government" was also held to be too sweeping. Such a ban might have been sustained, the court indicated, had it applied to local parties under the "control and direction of a foreign government," or had it proscribed affiliation with "those foreign agencies whose activities constitute a clear threat to the operation of our elective system." In the absence of an alternative method of getting on the ballot, the judges also declared unconstitutional the requirement that the party show a strength of 2,500 voters, on a basis of data collected "twenty-five days prior to the last preceding primary election." Inasmuch as this normally would occur two years previously, it was regarded as an absolute bar to a newly-organized party. Finally, although the section which disqualified for advocacy of forceful overthrow of the government was sustained, the enforcement section which entrusted the secretary of state and the attorney-general with power to

[5] Morrissey v. State Ballot Law Commission, 43 N.E. (2d) 385 (Mass., Aug., 1942).

determine what parties qualified for participation in the primary was invalidated because it failed to provide for notice, hearing, and specific time of the determination. This last clause was not saved by the fact that the determination was made subject to judicial review.[6]

Elections: Disqualification for Office. The Montana Corrupt Practices Act was held unconstitutional because, in excluding from any state or municipal office a person whose nomination or election had been annulled for breach of the act, it named a condition of "ineligibility in addition to those provided by the constitution."[7] This was not permissible "even for the laudable and constitutional purpose of purifying elections." Proceedings under the act were construed as being not criminal in nature, but simply as determinative of the right to office.

A statute which made persons under thirty years of age ineligible for the office of railway commissioner was upheld by the Nebraska supreme court. The commission had been created by constitutional amendment which specified the election, number, and length of term of members, but said nothing at all about eligibility. The legislature therefore was free to establish qualifications, and in view of the responsibilities of the position an age minimum of 30 was not unreasonable.[8]

Legislature: Senatorial Reapportionment. In a decision the political implications of which were not immediately clear, the Ohio supreme court invalidated the 1941 reapportionment of senatorial districts.[9] The redistricting was attempted under constitutional provisions designed for the prevention of gerrymandering, and which made the governor, auditor, and secretary of state responsible for a decennial reapportionment of the senate. Detailed rules were prescribed for performance of the task. Prior to 1941, the constitutional provisions had always been applied on the theory that the districts did not fall apart at the end of each decennium. However, in 1941 the Apportioning Board virtually wiped the slate clean, retaining or modifying only nine of the old senatorial districts and completely rearranging the others. Had the Board followed the proper and conventional rules, "not a single change . . . could have been made" in the districts.

Legislature: Local or Special Laws. Forty years of growing uncertainty over overlapping classification laws prompted officials of Laramie, Wyoming, to seek a declaratory judgment to determine the city's status. In an opinion which bore more than a trace of the confusion it grew out of, the state supreme court held that legislative efforts to maintain Laramie as a

[6] Communist Party of United States of America *et al.* v. Peek, State Secretary *et al.*, 127 P. (2d) 889 (Cal., July, 1942).

[7] State *ex rel.* Palagi v. Reagan, 126 P. (2d) 818 (Mont., June, 1942).

[8] State *ex rel.* Quinn v. Marsh, 3 N.W. (2d) 892 (Neb., May, 1942).

[9] State *ex rel.* Herbert, Atty. Gen. v. Bricker, Governor *et al.*, 41 N.E. (2d) 377 (Ohio, Apr., 1942).

city of the second class by means of exclusive population limits violated constitutional clauses against local and special legislation.[10]

Courts. A number of statutes were invalidated for interfering with the constitutional or inherent powers of the courts or for attempting to confer judicial duties on administrative bodies. In Pennsylvania, the judges pronounced unconstitutional sections of an act of 1941 which gave the parole board power to extend the parole beyond the maximum term imposed by the sentence and to discharge a parolee before expiration of sentence.[11] "Fixing of the term of sentence" was declared to be "exclusively a judicial function." With this, the Illinois supreme court unanimously agreed when it nullified the 1941 amendments to the Parole Act, which had attempted to vest in the division of correction the power to change the maximum and minimum duration of imprisonment from that set by the trial court.[12]

Declaring courts of appeal to be "constitutional courts whose jurisdiction is fixed by constitutional provisions . . . " and therefore beyond enlargement or diminishment by legislative action, the Ohio court of appeals voided a statute which had made final the decision of courts of common pleas in certain proceedings.[13] A similar fate met a statute which conferred on the judges of the Arkansas supreme court jurisdiction to issue search warrants.[14] The majority of a divided court reasoned that a search warrant is a writ the issuance of which is an act of original jurisdiction, whereas the only jurisdiction given to judges of the supreme court by the constitution is appellate. Even more obnoxious to judicial sensibilities, and to those of most graduates of "reputable law schools," was a Nebraska statute of 1941 which declared all law schools then existing in the state to be "reputable." Such legislation was held not only to freeze the limits of a class but to infringe on the inherent power of the court to control admissions to the bar.[15]

[10] May v. City of Laramie, 131 P. (2d) 300 (Wyo., Nov., 1942). Acts which gave certain persons the privilege of bringing suits against the state, and which provided that the statute of limitations should not be available as a defense, were held to be forbidden special legislation in State Highway Department *et al.* v. Gorham, 162 S.W. (2d) 934 (Texas, June, 1942), and Bordy v. State *et al.*, 7 N.W. (2d) 632 (Neb., Jan., 1943). Minimum hours legislation for municipal fire department employees was held not to be special legislation in Grosse Pointe Fire Fighters Ass'n, Local No. 533 *et al.* v. Village of Grosse Pointe Park, 6 N.W. (2d) 725 (Mich., Nov., 1942).

[11] Commonwealth *ex rel.* Banks v. Cain, Keeper of Prison, 28 A. (2d) 897 (Pa., Nov., 1942).

[12] People v. Montana, 44 N.E. (2d) 569 (Ill., Nov., 1942).

[13] Citizens Building & Loan Co. of Ulrichsville v. Merion, Superintendent of Building and Loan Ass'ns, 45 N.E. (2d) 800 (Ohio, Apr., 1941).

[14] *Ex parte* Levy, Levy v. Albright, 163 S.W. (2d) 529 (Ark., July, 1942).

[15] State *ex rel.* Ralston v. Turner, 4 N.W. (2d) 302 (Neb., June, 1942). For constitutionally unobjectionable legislation affecting the bar, see Ayres *et al.* v. Hadaway *et al.*, 6 N.W. (2d) 905 (Mich., Dec., 1942). In Hulbert v. Mybeck, 44 N.E.

Executive: Vacancies. How, and by whom, is the vacancy filled when the governor-elect dies before qualifying and taking office as governor? In answering this apparently novel question, the supreme court of Wisconsin first eliminated the possibility of a special election. This would take time and would be feasible only if the incumbent could hold over. But the distrust which the constitutional framers entertained for the chief executive, and the political importance of the office, alike require strict adherence to the constitutional two-year term. The incumbent, therefore, may not hold over "under any circumstances." The court next observed that the constitution provides: "In case of the impeachment of the governor, or his . . . death, . . . the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term. . . . " Since this language did not unambiguously exclude the lieutenant governor, the court examined the constitutional debates. From these it appeared that the only substantial reason for having a lieutenant governor was to insure against interruption in the functions of the highest executive office in the state. Hence, the lieutenant governor was entitled to the office and to serve out the full term.[16]

Executive: Governor's Powers. The power of the governor to cancel an appointment, and withdraw the appointee's name any time before confirmation by the senate, was upheld in Arizona.[17] It was reasoned that title to an office does not vest until after confirmation; hence the governor may change his mind any time before the upper house acts, without need of following rules concerning removals. The argument that a person whose name is confirmed after withdrawal holds the office until the court finds otherwise is without merit.[18]

Louisiana Cases. Constitutional developments in Louisiana again tended toward the spectacular. The tendency originated last year when the supreme court, in the case of Graham v. Jones,[19] declared unconstitutional a constitutional amendment ratified by popular vote. That decision not only invalidated an executive reorganization which was to have been the heart

(2d) 830 (Ill., Nov., 1942), the court frustrated an attempt by a local bar association to prevent a court clerk, who was not an attorney, from assisting persons in establishing birth dates.

[16] State *ex rel.* Martin, Att'y.-Gen. v. Heil, Governor, *et al.*, 7 N.W. (2d) 375 (Wis., Dec., 1942).

[17] McBride v. Osborn, Governor, 127 P. (2d) 134 (Ariz., June, 1942).

[18] Rogers v. Frohmiller, State Auditor, 130 P. (2d) 271 (Ariz., Oct., 1942). The governor's power, under a statute, to transfer money from one emergency fund to another was upheld in Commonwealth *ex rel.* Meredith, Atty. Gen. v. Johnson, Governor, *et al.* 166 S.W. (2d) 409 (Ky., Aug., 1942), as extended on denial of rehearing in December, 1942. The powers of the attorney-general may be diminished by the legislature in Kentucky. Although the office is constitutional, the constitution does not enumerate its powers. Johnson, Governor v. Commonwealth, *ex. rel.* Meredith, Att'y. Gen., 165 S.W. (2d) 820 (Ky., Dec., 1942).

[19] 3 S. (2d) 761 (La., June, 1941). See this REVIEW, Aug., 1942, p. 668.

of Governor Jones' reform program, but its very prospect provoked fierce attacks upon threatened "judicial dictatorship." Two days before the decision was rendered, the anti-Jones forces countered by filing eleven separate rules for contempt against the newspapers, editorial writers, and publishers who had been leading the attacks. These actions were finally dismissed by the supreme court,[20] with opinions that were unique in several respects. The judges readily acknowledged that the court had in no way been intimidated by the attacks. Yet they held that the language employed went far beyond fair and reasonable criticism. It tended materially to affect the orderly administration of justice. The writers therefore stood in contempt, and only the recent decisions of the Supreme Court of the United States in the Bridges and *Times-Mirror* cases[21] prevented them from receiving punishment. The holdings thus afford the first major test in the states of the "clear and present danger" rule as applied to contempt. They may be thought to justify proponents' arguments[22] that the new standard is more practicable than the old "reasonable tendency" rule, in that it serves to restrain summary judicial action without destroying a court's powers of self-protection.

A remarkable consequence of the first Graham v. Jones decision was its cumulative effect. Having virtually hamstrung the Jones administration by holding that reorganization of the state administrative structure and a unified system of state finances were "distinct and separate," and not logically to be regarded as parts of a single reform or plan, the court found itself with no alternative but to disallow various related acts on the ground that such legislation was all "interwoven and designed to form a comprehensive scheme for reorganization of the Executive Branch." The parts being inseparable, the whole must fall.[23]

Other decisions proved less satisfactory to the remnants of the Long machine. At its 1942 session, the legislature again created a department of finance. When a lower court promptly declared this statute unconstitutional and enjoined enforcement, the supreme court granted a suspensive appeal under an act of 1934. The Long forces then argued, unsuccessfully, that the suspensive appeals statutes denied due process and equal protection. The obvious and approved purpose of such acts, the judges decided, was to prevent inferior courts from restraining enforcement or execution of constitutional provisions or legislation pending final decision by the supreme court.[24]

[20] Graham *et al.* v. Jones *et al.* (2d case, same parties), *in re* Times-Picayune Pub. Co. Inc., *et al.*, 7 S. (2d) 688 (La., Mar., 1942).

[21] 314 U.S. 252 (Dec., 1941).

[22] Radin, "Freedom of Speech and Contempt of Court", *Ill. Law Rev.*, Vol. 36, pp. 599–620 (Feb., 1942).

[23] Ricks v. Close, Director of Finance, *et al.*, 9 S (2d) 534 (La., May, 1942).

[24] Wall v. Close, Director of Finance, *et al.*, 10 S. (2d) 779 (La., Nov., 1942).

Disintegration of the Long-Leche machine was also accelerated by disbarment of former Governor Leche, and by original proceedings in the supreme court seeking the removal of several judges of the district courts. The so-called Leche-Connolly cases[25] arose under a clause of the constitution which invests the supreme court with an "exclusive, original jurisdiction in all disbarment cases involving misconduct of members of the bar, with power to suspend or disbar under such rules as may be adopted by the Court." In controversy was a rule that provided for summary disbarment of any lawyer convicted of a felony. The majority of the court held that a certified copy of a judgment of conviction might be deemed prima facie proof of misconduct, without surrendering or delegating the court's jurisdiction or violating the principle of separation of powers. Two justices, who had been named to the court in the heyday of the Long machine's power, dissented. They later concurred in the decrees removing the guilty district court judges,[26] but sought to mitigate the offenses and attributed the suits to malice and politics.

War Cases: Dual Office-Holding. The war has had a surprisingly limited effect upon state constitutional law. Most numerous have been the cases involving provisions against dual office-holding. During the past year, courts in five states out of seven have held that service by a state officer in the armed forces of the United States does not vacate the state office.[27] On adopting this liberal attitude, judges have stressed that many of the earlier and unfavorable decisions grew out of dual salary claims.[28] Leaves of absence have eliminated such evils, and the courts have shown reluctance to penalize patriotism and military service. Occasional dissent has been motivated by the feared paralysis arising from the absence of too many constitutional officers.[29]

[25] Louisiana State Bar Association v. Leche, 9 S. (2d) 566 (La., July, 1942). Same v. Connolly, 9 S. (2d) 582 (La., July, 1942). Summary revocation of the license of a physician convicted of a crime involving moral turpitude was upheld in Schireson v. State Board of Medical Examiners of New Jersey *et al.*, 28 A. (2d) 879 (N. J., Nov., 1942).

[26] Perez, Dist. Att'y. v. Meraux, Judge. 9 S. (2d) 662 (La., Aug., 1942). Stanley, Att'y. Gen. v. Jones. 9 S. (2d) 678 (La., Aug., 1942).

[27] *In re* Advisory Opinion to Governor, 8 S. (2d) 26 (Fla., May, 1942); State *ex rel.* McGaughey v. Grayston, 163 S.W. (2d) 335 (Mo., June, 1942); State *ex inf.* McKittrick, Atty. Gen., v. Wilson, 166 S.W. (2d) 499 (Mo., Dec., 1942); Gullickson v. Mitchell, Secretary of State, 126 P. (2d) 1106 (Mont., June, 1942); Cramer v. Sheppard, Comptroller of Public Accounts, *et al.*, 167 S.W. (2d) 147 (Texas, Jan., 1943); Critchlow v. Monson, Secretary of State, *et al.*, 131 P. (2d) 794 (Utah, Dec., 1942). *Contra:* People *ex rel.* Cromer v. Village of Maywood *et al.*, 45 N.E. (2d) 617 (Ill., Nov., 1942), and State *ex rel.* Cooper v. Roth, 44 N.E. (2d) 456 (Ohio, Oct., 1942).

[28] See Critchlow v. Monson, Secretary of State, *et al.*, 131 P. (2d) 794 (Utah, Dec., 1942).

[29] See Cramer v. Sheppard, Controller, 167 S.W. (2d) 147 (Texas, Jan., 1943).

War Cases: Right of State to Seize Property of Enemy Aliens. Can an enemy alien, during the state of war, and before the exercise of the sovereign power of seizure, extinguish the right of the state to acquire his real property by conveying it, in good faith, to a citizen? This question, of increasing importance in all jurisdictions as a result of wartime transfers, assumed an interesting and somewhat anachronistic constitutional status in New Jersey. It did so by reason of a provision in the constitution of 1844 to the effect that "the common law and statutes now in force, not repugnant to this constitution shall remain in force until they expire . . . or be . . . repealed by the legislature." Answering the above question in the negative, an elaborate opinion of the court of chancery found that the New Jersey statutes had always distinguished between friendly and enemy aliens, that at common law aliens had no capacity to hold against the state, and that thus the sovereign right of seizure survives such a grant of land.[30]

War Cases: Police Power. With Camp Joseph T. Robinson and two large ordnance plants near Little Rock, the Arkansas supreme court thought "eminently reasonable" a city ordinance which prescribed a blood test for all persons convicted of prostitution or immorality and which required hospitalization and treatment for those thus found to be infected with a venereal disease in a communicable stage.[31] On the other hand, the New Hampshire high court struck down an administrative order which restricted retail milk deliveries to once in forty-eight hours. In so far as the order applied to delivery by other than rubber-tired or motor vehicles, it was declared to be not adapted to a legitimate end.[32]

II. RIGHTS OF INDIVIDUALS

Freedom of Speech. In the most important free speech case of the year, an equally-divided Mississippi court sustained an omnibus sedition, espionage, and anti-sabotage statute passed in 1942 as a temporary war measure.[33] Two lay ministers of the Jehovah's Witnesses sect who told

[30] Caperell *et al.*, v. Goodbody, 29 A. (2d) 563 (N. J., Dec., 1942).

[31] City of Little Rock *et al.* v. Smith, 163 S.W. (2d) 705 (Ark., July, 1942).

[32] Cloutier v. State Milk Control Board, 28 A. (2d) 554 (N. H., Oct., 1942). In City of Lebanon v. Schneider, 163 S.W. (2d) 588 (Mo., June, 1942), emergency financing of municipal utilities in "defense areas" was upheld. The expression "five o'clock P.M." was held to mean mountain war time although the statute containing it was passed when mountain standard time was in effect.

[33] Taylor v. State, 11 S. (2d) 663 (Miss., Jan., 1943); Cummings v. State, 11 S. (2d) 683 (Miss., Jan., 1943); Benoit v. State, 11 S. (2d) 689 (Miss., Jan., 1943). The act provides: "Any person who . . . shall intentionally preach, teach, or disseminate any teachings, . . . theory, . . . designed . . . to encourage violence, sabotage or disloyalty to the government . . . or who by action or speech . . . gives information . . . which would incite any sort of racial distrust, disorder, prejudices or hatreds, or which reasonably tends to create an attitude of stubborn refusal to salute, honor or respect the flag or government of the United States, or of the state

listeners that "the President was doing wrong to send our boys across to be killed for nothing," "it was wrong to salute our flag," "it was wrong to fight enemies," and who distributed a book called "Children," were convicted of encouraging "disloyalty" and "creating an attitude of stubborn refusal to salute the flag." A lengthy review of espionage, sedition, and criminal syndicalism act cases convinced the prevailing judges that a sharp line might and should be drawn between war and peace-time powers; that in wartime "the legislature had the right, under its police powers, to enact the statute," which in no way violated the rights of free speech or press. Nor was freedom of religion violated, because "the flag salute and pledge of allegiance here in question do not in any sense relate to religion." The "clear and present danger" rule was specifically rejected in favor of the "reasonable tendency" test. Finally, the statute was held not to violate the requirement of due process: despite use of the word "stubborn," an ascertainable standard of violation had been laid down.

In a dissenting opinion extraordinary for both its power and style, Justice Alexander argued that "since disloyalty may connote language or acts which go no deeper than a disapproval or lack of sympathy with governmental policy," the act lacked a reasonably definite standard of guilt. He saw "a greater danger to free speech from the controlling opinion than . . . to the war effort by the frail opinions of appellant, whose inconsequence is attested by the revulsion awakened in his accusers." "The controlling opinion denies . . . the right to invest the salute with a religious aspect. . . . The Court arrogates to itself the right to define religion for the citizen. . . . The dictates of conscience are dictated by and not to conscience. . . . The courts may control what . . . citizens do to our flag, but not what the flag does to them." On June 14, the Supreme Court of the United States unanimously reversed the Mississippi court, holding that since the compulsory flag salute had previously been ruled improper[34] as applied to conscientious objectors, it followed that punishment for imparting views upon the subject was equally so.[35]

Quoting Mr. Justice Holmes, "the petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a policeman," the Missouri court upheld a provision in the St. Louis charter restricting political activities of city employees. Employees were held to have consented to a curtailment of their rights of free speech as a condition of employment.[36]

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of Mississippi, shall be guilty of a felony and punished by imprisonment . . . until treaty of peace be declared . . . but such imprisonment shall not exceed ten years."

[34] West Virginia State Board of Education v. Barnette, 11 *U. S. Law Week* 4472; 87 L. Ed. 1171. (U. S. Sup. Ct., June 14, 1943).

[35] Taylor v. Mississippi, 11 *U. S. Law Week* 4497; 87 L. Ed. 1195.

[36] State *ex. inf.* McKittrick, Att'y. Gen., *ex rel.* Ham v. Kirby, 163 S.W. (2d) 990 (Mo., July, 1942); accord, Ricks v. Department of State Civil Service, 8 S. (2d) 49 (La., Apr., 1942).

Freedom of Religion. Reflecting the indecision and fluctuations of the U. S. Supreme Court, and not infrequently protesting against them, state courts have varied sharply in their application to religious practices of non-discriminatory legislation designed to regulate commercial and business activities. The New York high court held that, properly construed, an ordinance which dealt with trades "or occupations" did not require a Jehovah's Witness to obtain a license in order to sell or offer for sale, without profit to himself, the Bible and religious tracts.[37]

An ordinance which required "any person who shall sell or offer for sale . . . any . . . merchandise of any kind . . . " on the city streets to pay a fee and procure a peddler's license was held invalid by the Illinois supreme court, because applicable to the activities of Jehovah's Witnesses.[38] Yet the supreme court of Alabama found no objection to an ordinance which, as applied to the Jehovah's Witnesses sect, required a license fee for the use of the streets for the sale of "books or pamphlets." This was the famous Opelika case,[39] affirmed by the United States Supreme Court, five to four, in June, 1942,[40] and overruled, five to four, in May, 1943.[41] The Pennsylvania courts also regarded as applicable to religious practices, and constitutional, a forty-four-year-old ordinance of the city of Jeanette which forbade sale of "goods, wares or merchandise of any kind" within the city by "canvassing or soliciting . . . " without a license for which a fee was charged.[42] This decision, too, was later reversed by the U. S. Supreme Court.[43] An interesting variant was provided by an ordinance of the city of Montrose, Colorado, which forbade use of "any bell, horn, bugle or other sounding instrument . . . as a means of advertising or attracting a crowd." The court majority agreed with local business men that this enactment should be sustained as applied to preachers who used a microphone and loud speaker on the main street during business hours to preach and to announce other meetings.[44] The supreme judicial court of Massachusetts upheld a statute which prohibited children under twelve from selling papers on the streets. The test case involved a nine-year-old girl who, with her aunt, had been selling Jehovah's Witnesses publications.[45]

[37] People v. Barber, 46 N.E. (2d) 329 (N. Y., Jan., 1943). In Emch v. City of Guymon, 127 P. (2d) 855 (Okla., July, 1942), an ordinance forbidding the distribution of newspapers, handbills, tracts, or books without a permit was easily held unconstitutional as applied to a distribution made by a Jehovah's Witness.

[38] City of Blue Island v. Kozul, 41 N.E. (2d) 515 (Ill., Mar., 1942).

[39] Jones v. City of Opelika, 7 S. (2d) 503 (Ala., Apr., 1942).

[40] Jones v. City of Opelika, 316 U.S. 584 (June 8, 1942).

[41] Jones v. City of Opelika, C.C.H. Supreme Court Service, p. 1199 (May 3, 1943); 87 L. Ed. 854.

[42] Commonwealth v. Murdock, 27 A. (2d) 666 (Pa., Sept., 1942).

[43] Murdock v. Pennsylvania, C.C.H. U.S. Supreme Court Service, p. 1189 (May 3, 1943); 87 L. Ed. 854.

[44] Hamilton v. City of Montrose, 124 P. (2d) 757 (Colo., Mar., 1942).

[45] Commonwealth v. Prince, 46 N.E. (2d) 755 (Mass., Feb., 1943).

The fact that "many snakes are poisonous and only the . . . herpetologist or experienced woodsman is able to distinguish those which are not" was cited by the Kentucky court of appeals as sufficient to sustain a 1940 statute which prohibited "display . . . or use" of "any snake or reptile in connection with any religious service."[46] Arguments to the effect that the handling of poisonous snakes was a test of faith and a part of appellant's religious belief and practice, and hence could not be forbidden without violating guarantees of religious freedom, were rejected on the ground that the framers of the Kentucky and federal bills of rights were "imbued with the ideals of Thomas Jefferson and had no thought of depriving the legislature of its inherent power to legislate for the welfare and safety of its citizens."

In a case of first impression, the Missouri supreme court held that a parochial school which for years had been maintained at public expense in a predominantly Catholic district violated clauses of the Missouri constitution designed to secure the freedom of conscience and religion. The facts that religious services and instruction were not conducted during regular school hours and that non-Catholics were not required to participate were immaterial; the school board may not enforce religious worship by children even in the faith of their parents. Educational segregation, in the public schools, on a basis of religion was condemned, and a constitutional clause was invoked which expressly forbids the use of public funds to sustain any private or public school controlled by a sectarian denomination.[47]

Relying on the fact that the state constitution, in addition to guaranteeing religious liberty, directs the legislature to establish a uniform system of common schools, the Kansas supreme court declined to follow the U. S. Supreme Court in a flag salute case.[48] Acting under authority of the Gobitis decision,[49] the Cherokee county school board excluded from school the children of members of the Jehovah's Witnesses sect who refused to salute the flag. The parents were then convicted in the lower courts for violation of the truancy laws. In reversing this judgment, the state supreme court distinguished the Gobitis case and observed "without comment as to its effect . . . " that three of the justices who concurred in that opinion had announced[50] that they had changed their minds.

Picketing. Is the picket's conventional epithet, "Unfair to Organized Labor," untruthful, and therefore outside the guarantee of free speech, when made by union members against an employer who has a contract

[46] Lawson *et al.* v. Commonwealth, 164 S.W. (2d) 972 (Ky., Oct., 1942).

[47] Harfst *et al.* v. Hoegan *et al.*, 163 S.W. (2d) 609 (Mo., June, 1942), rehearing denied, July, 1942.

[48] State v. Smith *et al.*, Same v. Griggsby *et al.*, 127 P. (2d) 518 (Kan., July, 1942).

[49] Minersville School District v. Gobitis, 310 U.S. 586 (1941).

[50] Jones v. City of Opelika, 62 Sup. Ct. 1231 (June, 1942).

with a bona fide union? This question was answered in the negative by a majority of the West Virginia court, who held that in labor disputes the word "unfair" has lost its primary and customary meaning, and is now merely . . . "a word of disapprobation or invective . . . an expression of opinion or . . . conclusion." Two dissenters argued that "the legal effect of a public declaration should be gauged by the meaning attached to it by the public at large, not by a different meaning given it by the publisher.[51]

The application of the rule that untruthful representations lie outside the guarantee of free speech also divided the New York court of appeals. A bare majority upheld a permanent injunction against pickets who had been found to have made statements, which they denied, that a restaurant's food was bad, and that patronage would aid the cause of fascism. Three dissenters argued that the findings of fact were irreconcilable and that injunctive relief should have been withheld.[52]

Rights of the Accused: Counsel. The supreme court of Georgia ordered a new trial for a Negro convicted of rape where it appeared that as a result of restrictions imposed upon his communication with others he had been denied reasonable opportunity to procure counsel of his own choice. Though the restrictions apparently were dictated by fear of mob violence, and the trial court had appointed counsel of good reputation (counsel to which the defendant had offered no objection other than that they were not of his own choice), the reviewing court declared: "Neither zeal to bring to proper punishment nor wholesome desire to apprehend one guilty of so violent and outrageous a crime as that charged in the present case must be allowed to break down this guaranty, given by all States in the Union save one, and by the Federal constitution as well, and as given by Georgia in 1798. See Betts v. Brady, 316 U.S. 455."[53]

The question of whether mere non-appointment of counsel constituted lack of due process was considered and answered in the negative by the Maryland court shortly before the same conclusion was reached by the majority of the Supreme Court of the United States in the case of Betts v. Brady.[54] Where the defendant, an habitual offender, knew his rights, was familiar with criminal trials, and had not asked to be represented by coun-

[51] Blossom Dairy Co. v. International Brotherhood of Teamsters *et al.*, 23 S.E. (2d) 645 (W. Va., Dec. 1942).

[52] Angelos *et al.* v. Mesevich *et al.*, 46 N.E. (2d) 903 (N. Y., Jan., 1942). See also Naprawa *et ux.* v. Chicago Flat Janitors' Union, Local No. 1, *et al.*, 43 N.E. (2d) 198 (Ill. App., June, 1942) denying an injunction against picketing an apartment house whose owner-manager did all janitor work and refused to pay up a $200 union membership after having paid the $50 initiation fee; and Magill Bros. Inc. v. Building Service Employees International Union *et al.*, 127 P. (2d), 542 (Cal., July, 1942) authorizing injunctive relief against the statement "This house on strike" when, in fact, it was not.

[53] Walker v. State, 22 S.E. (2d) 462 (Ga., Oct., 1942).

[54] 316 U.S. 455 (June, 1942).

sel, the court felt that constitutional guarantees had not been violated.[55] But in another case, decided the same day, the court granted a new trial to a Negro boy whose ignorance of legal procedure had caused him to pass up an opportunity to be represented by counsel. The fact that the boy had been indicted, arraigned, tried, and sentenced to ninety years for robbery, all in a period of three days, provoked a declaration that a fair trial must be more than a sham or a pretense, even though lack of counsel did not invariably constitute lack of due process.[56]

Revocation of Suspended Sentence. The method of revoking suspension of sentence for breach of conditions where the statute which authorizes suspension of sentence is silent came before the Oklahoma court of criminal appeals. The court held that the proceeding might be summary in nature, without notice or hearing, but could not be arbitrary; that whether it was arbitrary would depend upon the facts in each case. It was suggested, however, that the better practice would be to require the county attorney "to file a written accusation . . . setting forth the conditions of the suspended sentence which are alleged to have been violated."[57]

Speedy Trial. The rule that repeated continuances over the protest of the accused violate constitutional requirements of a speedy trial was applied by the Florida supreme court to release a defendant when it appeared that six continuances had been granted over a period of two years.[58] But a speedy trial does not require trial at the next ensuing term of court after being charged with a criminal offense.[59]

Right to Prosecute or Defend One's Own Case. The Alabama court held that one who was unlicensed to practice law could not gain a right to do so by joining his own name to cases as a party and pleading benefit of a constitutional guarantee that "no person shall be barred from prosecuting or defending before any tribunal of this state, by himself or counsel, any civil cause to which he is a party."[60]

Preliminary Examination. Since state and federal due process clauses do not require a preliminary examination in criminal proceedings, the

[55] Smith v. State (four cases), 25 A. (2d) 681 (Md., April, 1942).

[56] Coates v. State (nine cases), 25 A. (2d) 676, (Md., Apr., 1942), *certiorari* denied, Oct., 13, 1942. The Maryland court also held that segregation of Negro golf players on one of the four courses maintained by Baltimore City constituted an invasion of constitutional rights where it appeared that other course facilities were substantially inferior. Durkee *et al.* v. Murphy (three cases), 29 A. (2d) 253 (Jan., 1943). For other cases involving Negro rights, see Bunn v. City of Atlanta, cited in note 63 *infra*.

[57] *Ex parte* Boyd, 122 P. (2d) 162 (Okla., May, 1942).

[58] Dickoff v. Dewell, Judge, 9 S. (2d) 804 (Fla., Oct., 1942).

[59] State *ex rel.* Curley v. McGeachey, Circuit Judge, *et al.*, 6 S. (2d) 823 (Fla., Mar., 1942).

[60] *Ex parte* Wetzel, Bessemer Bar Association v. Wetzel, 8 S. (2d) 834 (Ala., June, 1942).

Michigan supreme court thought that a judge was not to be disqualified from holding a preliminary examination because he had acted as a one-man grand jury in the same case, and in that connection had filed a presentment with the governor for the defendant's removal from office.[61]

Double Jeopardy. In Montana, an information was sustained although an earlier prosecution charging the same felony had been dismissed. The supreme court followed the California court in holding valid a statute, taken verbatim from the California penal code, which provided that "dismissal is a bar to any other prosecution for the same offence" in misdemeanor but not in felony cases.[62]

Equal Protection of the Laws. A drastic jim-crow ordinance of Atlanta which forbade owners of taxi-cabs or automobiles for hire to transport both white and colored passengers, even at different times, was upheld against a claim that it violated requirements of due process and equal protection of the laws.[63]

III. GOVERNMENT AND BUSINESS

Regulation of Professions. An interesting decision of the New York court of appeals clarified the power of quasi-judicial agencies to define "unprofessional conduct." A dentist whose license had been suspended after a finding that he had employed a credit agency to solicit prospective patients pointed out that "unprofessional . . . conduct" and "fraudulent, misleading, or deceptive advertising" were the only pertinent statutory grounds for suspension. Consequently, the regulations of the Board of Regents which made "unprofessional and objectionable advertising" a ground for suspension, and which declared the employment of advertising solicitors and free publicity agents to be a form of "unprofessional and objectionable advertising," were ruled out of bounds. The statutory basis of the decision was buttressed by a statement that "the Board . . . may ban only acts and conduct which, upon reasonable ground, it deems unprofessional." In the present case, where the plaintiff had discontinued the objectionable practice as soon as it was brought to his attention, he was held to have acted without wrongful intent, and the suspension impliedly was unreasonable.[64]

California's court approved a statutory requirement that osteopaths submit satisfactory proof of completion of thirty hours of professional study during the year as a condition for renewal of their licenses. The fact

[61] People v. McCrea *et al.*, 6 N.W. (2d) 489 (Mich., Nov., 1942).

[62] State v. McGowan, 131 P. (2d) 262 (Mont., Nov., 1942). An information charging defendants with having received and possessed stolen property on July 18, 1940, was held vulnerable to a plea of double jeopardy in Louisiana when six weeks earlier a jury had returned a verdict of not guilty for the same offense alleged to have been committed on July 21, 1940. State v. Schneller, 7 S. (2d) 66 (La., Mar., 1942).

[63] Bunn v. City of Atlanta, 19 S.E. (2d) 557 (Ga., Mar., 1942).

[64] Cherry v. Board of Regents of University of State of New York, 44 N.E. (2d) 405 (N. Y., Oct., 1942).

that holders of physicians' and surgeons' certificates were not subject to a similar requirement did not render the classification defective, in view of the elastic character of the power to regulate treatment of disease.[65]

Although the supreme court of Florida distinguished an earlier case and so sustained a statute which authorized the Barbers' Sanitary Commission to fix prices and hours,[66] barbers continued to lose ground in their campaign for self-regulation.[67] Even the Florida success proved limited, for five of the judges agreed that the commission's price-fixing order, setting up a fifty-cent haircut and twenty-five-cent shave schedule in Leon county on petition of two-thirds of the barbers was wholly unsupported by findings. In Indiana, similar control of barbers' prices and hours, first invalidated as an unconstitutional delegation of legislative power in 1940,[68] was not rendered more palatable by reënactment with clauses which laid stress on the public health and general welfare. The possibility of general economic benefit through financial benefit to barbers as a class was deemed too tenuous and remote for serious consideration.[69] Finally, a sweeping decision of the Arkansas court held a barbers' prices and hours law to violate four provisions of the state constitution, as well as the three major clauses of the Fourteenth Amendment.[70]

Relying heavily on a similar decision of the Massachusetts court in 1940, a three-to-two decision of the supreme court of errors of Connecticut sustained the sections of the notorious Comstock laws of 1879 and 1887 which forbid dissemination, even by the medical profession, of any information relating to birth control. Medical societies had concentrated their attack upon the statute's failure to permit such prescription when deemed necessary for life or health. A strong dissenting opinion stressed the anomalous consequences of the decision, and argued that a proper respect for the framers' intelligence required that an implied exception be read

[65] Gamble v. Board of Osteopathic Examiners of California *et al.*, 130 P. (2d) 382 (Cal., Nov., 1942).

[66] McRae *et al.* v. Robbins *et al.*, 9 S. (2d) 284 (Fla., July, 1942). The Chief Justice dissented from the part of the opinion upholding the act, and two judges dissented from the part holding the order to be unsupported. See also Lisenba *et al.* v. Griffin *et al.*, 8 S. (2d) 175 (Ala., May, 1942), for invalidation of an ordinance creating a city barber board with sweeping powers.

[67] See this REVIEW, Vol. 35, p. 696, n. 65–68. [68] *Ibid.*, n. 68.

[69] State Board of Barber Examiners v. Cloud *et al.*, 44 N.E. (2d) 972 (Ind., Nov., 1942). This opinion is distinguished by a careful review of the status of such legislation, and by a readiness to argue its expediency and justice. See also Needham v. Proffitt, 41 N.E. (2d) 606 (Ind., May, 1942), for invalidation of a statute which prohibited embalmers from advertising prices in newspapers and printed media.

[70] Noble *et al.* v. Davis, 161 S.W. (2d) 189 (Ark., Apr., 1942). But an Arkansas statute which declared optometry to be a learned profession open only to graduates of Grade A schools, which prohibited professional advertising, and authorized revocation of the license of an optometrist who accepted employment from any person, firm, or employer not a licensed optometrist, was upheld in Melton *et al.* v. Carter *et al.*, 164 S.W. (2d) 453 (Oct., 1942).

into the statute, if only for the reason that otherwise it remained unlawful to prevent conception in order to save life, but lawful to perform abortions for that purpose.[71]

Trade Barriers and Fair Trade Laws. Although thus far the war has had relatively little effect on state constitutional development, it appears to have arrested, at least temporarily, the flood of "fair trade" laws and litigation.[72] The Florida court, after having sustained, upon broad grounds and without detailed analysis of provisions, a Fair Trade Act sponsored by wholesale liquor interests, later reversed itself on rehearing and held the act to be little more than a scheme whereby the liquor wholesalers set such prices as they pleased and employed the police power to enforce them through a State Beverage Department.[73] The case is of special interest because the Florida court has repeatedly demonstrated its liberality toward price-fixing and fair-trade legislation.

Two Louisiana cases afforded an interesting contrast. In the first, the supreme court unanimously outlawed a price-fixing covenant which had been inserted in a union's contract with various cleaning and pressing establishments. The covenant was declared to violate a constitutional clause which prohibited all monopolies and combinations in restraint of trade.[74] Two months later, the court unanimously upheld the state Fair Trade Act of 1936 and expressly declared it not to violate this same clause.[75] The opinion relied heavily on the fact that at least 15 states had similar acts which prohibited a buyer from reselling commodities except at stipulated prices. It also pointed out that the constitutional prohibition did not expressly apply to contracts—an argument that seemed to undermine somewhat the holding in the dry cleaners' case.

Licence Fees. A Palo Alto ordinance that required sanitary inspection and imposed a license fee on all laundries doing business in the city, the fee varying with the number of employees at the plant, was held invalid by a California court as applied to a San Francisco laundry doing a $60,000 business, $900 of which came from Palo Alto. The basis for the decision was the fact that the ordinance operated extraterritorially and denied equal protection of the laws to out-of-town laundries and their agents.[76]

[71] Tileston v. Ulmann, State's Attorney, *et al.*, 26 A. (2d) 582 (Conn., May, 1942).

[72] Scarborough, Director of State Beverage Department v. Webb's Cut Rate Drug Store, Inc., 8 S. (2d) 913 (Fla., June, 1942). Two judges dissented.

[73] Cleaners, Dyers and Pressers Local Union, No. 228, v. G.H.W. Cleaners and Dyers, Inc., 7 S. (2d) 623 (La., Mar., 1942).

[74] Pepsodent Co. v. Krause Co., Ltd., (International Cellucotton Products v. Same, 9 S. (2d) 303 (La., May, 1943).

[75] Ferran *et al.* v. City of Palo Alto *et al.*, 122 P. (2d) 965 (Cal., Mar., 1942).

[76] Atlantic, C. L. R. Co. v. Ivy, 5 S. (2d) 244. See this REVIEW, Vol. 36, p. 684, n. 76.

Railroads. Railroads' efforts to follow up success achieved last year when the Florida court ruled that a fence law, valid when enacted fifty years before, had become unconstitutional through changed conditions,[77] failed of realization. Statutory provisions with regard to contributory negligence and damage done by locomotives, provisions which applied only to railroads and not to competing motor carriers, were held to be based upon a reasonable classification. The court contented itself with a statement that "there is . . . a vast difference between operation of locomotives and . . . motor driven carriers," and made no effort to determine, as had been done in the previous case, whether the actual risks justified statutory presumptions and liabilities which applied only to one of two competing services.[78]

Public Utilities. A statute which provides that any person interested in a public utility business who seeks and fails to obtain an injunction to restrain a city from issuing bonds for the purpose of constructing or acquiring the same type of public utility shall be liable to the city for the expense incurred by it in defending the suit was held to be constitutionally unassailable by the California supreme court.

Regulation of Auction Sales. An attempt by the city of Scottsbluff to prevent some of the more common malpractices of auction sales was disapproved by the Nebraska supreme court as arbitrary and discriminatory. The regulations required a fifteen-day notice to the city clerk before an auction sale, together with an inventory of all goods to be sold, their quality, quantity, kind, and grade; that no additions to a regular stock of merchandise be made for the sale; that accurate records be kept; that sales be on successive days; and that sales be not conducted after six o'clock P.M. or before nine o'clock A.M. The ordinance was said to be "restrictive rather than regulatory" and to apply to a "lawful business having no inherent, generally recognized or legislatively declared vices." The specific exemption of auction companies selling for the general public on commission further justified the conclusion that "the entire ordinance creates an arbitrary, illegal, and unreasonable classification."[79]

Housing. Constitutionality of public housing again became a live issue when the Ohio supreme court, accepting arguments advanced by counsel for building and loan associations,[80] ruled the property of the Columbus Housing Authority to be non-exempt from taxation because its present use was not "exclusively" for a public purpose. The theory of the decision, which critics attacked as sheer word play and as making public housing

[77] Loftin *et al.* v. Crowley's, Inc., 8 S. (2d) 909 (Fla., June, 1942).

[78] Sacramento Municipal Utility District v. Pacific Gas & Electric Co., 128 P. (2d) 529 (Calif., Sept., 1942).

[79] Webber *et al.* v. City of Scottsbluff *et al.*, 3 N.W. (2d) 635 (Neb., Apr., 1942).

[80] See Horace Russell, "Tax Status of Public Housing," *Amer. Bar Assn. Jour.*, Vol. 28, p. 381 (June, 1942).

impossible,[81] was found in the statement: "where dwellings are leased to family units for the purposes of private homes, the use . . . is private and not public. . . . That every man's house is his castle has not yet been erased from our laws." Tax exemption was condemned also on the ground that burdens were shifted to home-owners and taxpayers. Two dissenting judges held slum clearance and low-rent housing to be attempts to protect the entire community by lessening potent causes of disease, immorality, and crime. Such purposes might properly be regarded as "exclusively . . . public."[82] Housing for sharecroppers in North Carolina was sustained on these grounds, and by the overwhelming weight of authority.[83]

Taxation. Holding legal protection and taxation to be reciprocal, the Pennsylvania supreme court reduced a coal company's assessment for the triennium 1934–37 by 15 per cent because the company's lands had been spoliated by coal bootleggers to the amount of three million or more tons annually. Another reduction of 15 per cent was ordered in the assessment for the triennium 1931–34 because the then general economic condition of the anthracite industry had not been given due weight by the court below.[84]

The New York court of appeals divided sharply over whether a special New York City utility tax on "vendors of utility services" might be applied to a landlord's receipts from his incidental activities of sub-metering electrical current to tenants. The majority upheld the tax, but three judges were convinced that guarantees of due process and equal protection had been violated.[85]

Tax Exemption. The cardinal rule that tax exemptions are to be strictly construed caused a Georgia court of appeals to refuse exemption for the property of an electric coöperative which merely "stepped down" and distributed current purchased from T.V.A. Such distribution was not regarded as within the terms of a constitutional amendment which specifically exempted from taxation "plants . . . for the production or development of electricity." A dissenting judge contended that the majority's interpretation ignored the meaning and effect of the word development."[86]

[81] See Myres S. McDougall and A. A. Mueller, "Public Purpose in Public Housing: An Anachronism Reburied," *Yale Law Jour.*, Vol. 52, pp. 42–73 (Dec., 1942).

[82] Columbus Metropolitan Housing Authority v. Thatcher *et al.*, 42 N.E. (2d) 437 (Ohio, June, 1942).

[83] Mallard v. Eastern Carolina Regional Housing Authority, 20 S.E. (2d) 281 (N. C., May, 1942).

[84] Glen Alden Coal Co. v. Schylkill County Com'rs, 27 A. (2d) 239 (Pa., July, 1942).

[85] 436 W. 34th Street Corporation v. McGoldrick, Comptroller, 43 N.E. (2d) 436; Lacidem Realty Corporation v. Graves, 43 N.W. (2d) 440 (N. Y., 1942).

[86] Forrester, Comm'r, for the Use of Walker County v. North Georgia Electric Membership Corporation, 19 S.E. (2d) 158 (Ga. App., Feb., 1942).

AMERICAN GOVERNMENT AND POLITICS

CONGRESS AND THE ARMY: APPROPRIATIONS[1]

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I. ORGANIZATION AND PROCEDURE

Both House and Senate have established separate legislative and appropriations committees and operate under rules designed to exclude legislation from money bills and to deny funds for purposes which Congress has not previously approved. The authorizations generally carry a maximum limitation which allows legislative committees to exercise continuing control and gives Congress some protection against its liberality, although in the two decades between the wars military authorizations ran considerably ahead of appropriations. The appropriations committees influence policy by determining which among authorized programs are to be supported and to what extent, as well as by incorporating "legislation" in Army supply bills, supposedly only when matters are urgent. They usually consult the military affairs and other committees affected, which may offer no criticism or may complain that their jurisdictions and the will of the house concerned have been disregarded. The objection is not merely one of formalities or competition for prestige, but has solid basis in the belief that legislative committees can give more thorough consideration to the implications of new policies than can appropriations committees. Within authorizations, authority over military appropriations is diffused, but control is pretty much by the House Appropriations Subcommittee on the War Department. Its precedence over the Senate committee results, *inter alia*, from its initiation and more detailed examination of money measures and the latter's self-confinement largely to the rôle of an appellate agency. And the full committee, divided for purposes of expertise and expedition, usually reviews its recommendations only sketchily and hastily.

Yet the committee system's contributions to Congressional capacity to control administration offset only partially the disabilities of laymen in dealing with technical matters. Men who have made a career of arms have been rare in recent Congresses. Many members have been soldiers at one time; but they seem not to place high value on their personal military experiences, the current utilities of which are restricted by their limited duration and scope (certain types of staff work would afford better education than the line positions most have occupied) and by the time that has

[1] The writer is indebted to the Social Science Research Council for a grant-in-aid for a study from which has been drawn the material for this article covering the fiscal years 1934 through 1943.

intervened since the first World War. Respect for the judgments of Army officers has been based not only on the apparent absence of any available alternative, but also on consideration of the life-time theoretical and practical training of the Chief of Staff and a host of specialist bureau chiefs and their subordinates, confidence in whom has been enhanced by belief that they are recruited from a broad social base and are not "militarists." Legislators, of course, may educate themselves by reflecting on their own military careers, by participating in hearings on Army legislation, by making tours of inspection of posts and maneuvers (and even participating in the latter), by reading, by drawing on the experience of the committee clerk and others, and so on. But this pedagogy must compete with numerous other demands on their attention and always may be interrupted by failure to secure reëlection.

The hearings on Army appropriation bills are at the heart of Congressional control of the Military Establishment. To the soldiers who "present the needs of the War Department" they are an obstacle and an opportunity; for here they win or lose approval for projects cleared, or even denied, by the Chief Executive. To the legislators, they are an ordeal and an obligation; for here they discharge their responsibility to their colleagues and their constituents in seeking national security at an economical price. The two groups are dependent on each other, since one possesses the authority of knowledge while the other has the authority of law; and their coöperation is a prerequisite of satisfactory administration. They do, in fact, recognize the necessity for mutual aid, and their contacts generally have been harmonious, though occasionally relations become strained, since the lawmakers do not regard the warmakers as infallible.

The hearings are an educational institution in which the soldiers sometimes are students, but more often are teachers. In practice, the Administration proposes and the legislature criticizes financial programs for the Military Establishment. Before they can appraise intelligently, however, the committeemen must become informed. Most of the instruction is supplied by the books of estimates and justifications and by general statements of witnesses for the War Department and their replies to questions raised in cross-examination of their proposals for the future and in inquires into their execution of earlier enactments. The inquiries of the House subcommittee, as noted, are more searching than those of the Senate group. The former works from the budget message of the President; the latter starts with a letter from the Secretary of War "indicating . . . the changes which the War Department believes are absolutely necessary, and the reasons therefor." Most of these recommendations are (a) appeals from restrictions on spending or denials of money—though the Department acquiesces in some reductions made by the House; (b) ad-

ditions of funds for which need has arisen since the lower chamber acted—common only in the past three years; and (c) corrections of errors of Representatives in arithmetic or statutory language—as in amendments adopted from the floor. In addition, Senators have special interests about which to inquire; and of late they have wanted witnesses to repeat testimony off-the-record in the printed House hearings, which ordinarily could be consulted.

With rare exceptions, witnesses at the hearings are representatives of the War Department, "our good friends" the spokesmen for the civilian components (the National Guard, Officers' Reserve Corps, R.O.T.C., and C.M.T.C.), or members of Congress, so that the proceedings have somewhat an exclusive character—which has not gone uncriticized. Congress may be dealing too much with paper records alone, and might do well to bring some of the administrators from the field to Capitol Hill. In more leisurely times, the committees could travel and see for themselves; but that has been difficult in recent years, with Congress in continuous session and one supplemental defense appropriation following closely on the heels of another. There are complaints, also, that it is difficult to learn the views prevailing in the Army, both because officers may not present fairly the problems of enlisted men and because superiors may prevent subordinates from expressing themselves freely; but officers may convey opinions to friends among legislators and take advantage of convenient questions at the hearings. Finally, private organizations rarely participate, apparently from lack of interest rather than from barriers created by the committees, which at least allow them to file written statements.

The Secretary of War almost never appears at the hearings; but the Chief of Staff usually leads off and is followed by the heads of the arms and services and their aides, who defend the budget in detail. Each reads or extemporizes a general statement which orients new members and refreshes memories of old ones, at the same time that it anticipates many inquiries. The testimony consists chiefly of words, tables, and excerpts from the justifications, but is supplemented by charts, photographs, and even exhibits of small weapons. These introductions are interrupted and succeeded by frequently repetitious questions from the legislators. The results of the examination would be greater if members of the committees put more time into study before the hearings. But that a layman, in any case, is at a disadvantage is evident from the fact that the professional soldiers themselves find it desirable or necessary to specialize in explaining the estimates. Very few of the Army spokesmen lack "the gift of tongues"; but should they be temporarily at a loss for words, the departmental and bureau budget officers are present to lend a helping hand, and on occasion a Congressman assumes the rôle of devil's advocate. Some witnesses

have smoother sailing than others, the lawmakers' attitudes varying with their personal relations with the officers, the impression they make as they are sized-up on the "witness stand," their reputations in military circles, the informativeness and lucidity of their statements, the modesty of their requests, the accuracy of their previous estimates, the extent of their agreement with other experts, and so on.

There is little ground for complaint about the House committee's coverage. The annual hearings, which in peace-time ran between 700 and 900 pages, indicate that it deals with all the appropriation titles and many details, and although "one thing suggests another," it sticks very well to the business at hand. It is more difficult to appraise the quality of its investigations. On the whole, the members impress one as men conscientious in the discharge of their duties, but distracted by other work and troubles. Individually, they appear to have ranged from excellent to indifferent in attention, intelligent interrogation, and competence to weigh testimony. Good intentions are not an adequate substitute for lack of expertness, but it is not easy to see how that is to be acquired. For those who are returned to Congress, the experience of going over the War Department estimates year after year is valuable, as also are inspection trips which put the committee in touch with some of the administration "at the finger tips." Perhaps they should read more; but only one member in recent years has evidenced much acquaintance with "the literature in the field." Of course, there already exists a review of estimates in the Bureau of the Budget; but better staffing of the subcommittee would be useful. Mr. John C. Pugh, who has been a pillar of strength as the group's clerk, might be given assistance, so that there could be better preparation for the hearings and so that the committee would be less dependent on the War Department. Such an independent check would be the chief value of additional aides, since committeemen are not likely to have much more inclination or time for education by such assistants than they now have for instruction by the Army.

II. REVIEW OF ESTIMATES BY COMMITTEES

In reviewing estimates, the appropriations committees have been concerned less with policy than with its economical execution—a result both of respect for the jurisdiction of the legislative committees and of a sense of responsibility which takes account of their dependence on professional military opinion. Thus, there are frequent inquiries about methods of making up the budget, and Congressmen feel somewhat at home if they are informed that peacetime procedures are being applied to wartime appropriations. While there is not much disposition to modify the formulas themselves (although they involve much guesswork), the committees do not hesitate to challenge the accuracy of the elements which

enter into the calculations; but it is not often that they demand a greater quantity, as distinguished from a fuller explanation, of justifications data. Experience with previous appropriations influences legislators: a spending agency which has figured closely in the past is less likely to find its computations questioned than is one which has incurred deficits or has wound up with considerable surpluses. The committees occasionally make "spot checks," e.g., into construction costs, whose results affect their attitudes toward estimates not tested. Again, confidence in particular administrators, or its absence, influences the intensity with which the committees scrutinize the proposals for their organizations. In addition to their interest in methods, the committees are concerned that the War Department's programs of expenditure should (appear to) be well-considered. Congressmen are not often disposed to analyze these plans thoroughly, but their very existence is a "balm of Gilead," especially when military considerations make inadvisable the publication of details.

Congressmen respect the expertise of soldiers, particularly in periods of national insecurity. At the same time, they look upon the professional military men with some suspicion, which is revealed not only in critical remarks about "brass hats" and in friendly feelings toward the civilian components, but also in other ways. There has been a widespread disposition to consider military preparations and operations as non-productive and appropriations for them as "dead money"—but necessary as insurance. There is also occasional complaint that the War Department has insufficient regard for the interests and problems of taxpayers, to whom elected officials feel they are more responsive than those who are appointed and have security of tenure. Finally, there is a belief that the Army is bent on a program of administrative imperialism, and that in recent crises it has taken unfair advantage first of emergency public works and relief measures, and later of the international tension preceding our entrance into the war, to foist unnecessary projects on a Congress anxious to provide adequate national defense. Unhappily for its own defense, the Army long had been in arrears in securing implementation of its preparedness plans, so that it seemed never to have enough: "Everytime we see you, you are proposing something still bigger and still more costly." Responsibility may have rested with the President and Congress, which scarcely kept pace in military appropriations with war-threatening developments abroad; but the Department also has found it advisable to reassure legislators that its requests for additional support are reasoned rather than emotional.

The attention of the committees is not distributed in proportion to the sums of the estimates. The appropriations about which most, and the most informed, questions are asked are not necessarily those most important from the standpoint of the Military Establishment, but rather

those which fall within the experience, competence, and interest of the legislators, whose backgrounds are diverse but predominantly civilian. The committees do not insist that all items should be justified anew each year. The result has been a process of accretion, with more and more being taken for granted—except in the period of general retrenchment during the depression. Most of the committees' inquiries are directed at "the increases over the current fiscal year [which] will be where our investigation will be the most searching," although an item may be so stable that it creates doubts. The burden of proof tends to be on the Department, but generally it is not very difficult to satisfy the Congressmen, possibly because other legislative and executive barriers already have been cleared. Reductions are of less interest to the committees, except when they affect programs such as the National Guard which are of special concern to their members. The reaction to cuts in projects to which members are indifferent is that "here we look at the bright side. We see a reduction." Yet too large a cut may arouse suspicion that too much was allowed for the previous year and that "on principle" something more, perhaps, ought to be lopped off this year.

Of the inquiries that the committees make about proposals which attract their attention, three categories stand out. (1) They may merely question arithmetical accuracy, e.g., the availability of funds from sources other than the Army appropriations. (2) More frequently, they challenge the assumptions on which the estimates are based, e.g., the rate of projected expenditure—the number of men who actually will be enlisted, etc.—or, most often, unit costs of rations, automobiles, clothing, land, and especially construction, for all of which comparisons may be made with earlier years and with sometimes misleading civilian experience. (3) Particularly under Mr. Collins, chairman of the House Subcommittee during the early years of the depression, they have concerned themselves with the wisdom of supporting "wasteful" policies, e.g., excessive reserves, procurement planning, maintenance or purchase of obsolete equipment, printing, "luxurious" quarters for officers, and other "frills." The committees also inquire repeatedly about comparable legislation applicable to the Navy (pay, promotions, rations, profit limits, etc.) in their efforts, often unattained, to equalize conditions in the two services.

Since mid-1940, the committees have been concerned, as well, with the tendency of appropriations to run far ahead of expenditures. A few Congressmen have charged violation of the constitutional limitation on the duration of military appropriations. Some members criticize the legislature for depriving itself of a useful check by advancing a large drawing account; but "dribbling out" the funds involves disadvantages offsetting closer legislative control, e.g., consumption of time by Congress and the Army and impairment of the latter's ability to make long-term procure-

ment plans. Other legislators fear that appropriations will be mistaken for accomplishment, so that people's willingness to make exertions required to win the war will relax. The committees have wanted assurances that funds voted actually can be spent within a reasonable period, and such guarantees have been supplied by the War Department and the Bureau of the Budget, and by the N.D.A.C., O.P.M. and W.P.B., in which Congress seems to have had considerable confidence. Worries about monies that may remain unexpended but obligated, though war be terminated, have been reduced by the possibility of repealing appropriations and cancelling contracts, and by the fact that material already procured will keep.

There have always been some inquiries, also, about the adequacy of the estimates for the Army. Congressmen are aware that the Budget Bureau cuts requests of the War Department and that complaints by the latter are inhibited by the law as well as by reluctance to antagonize the Bureau; but its spokesmen take advantage of questions which allow, invite, and even prod them to speak up about its unsatisfied needs. In times of peace, the administrative recommendations encouraged by the committee members were confined largely to local interests and to their hobbies—the civilian components, posts and camps, seacoast and anti-aircraft defenses, airplanes, and so on. Since their conversion to the necessity of large-scale rearmament, however, it has broadened to include the whole range of the Military Establishment's programs: "we court your further . . . recommendations . . . " "The lid is off." Ask and it probably will be given. The change in emphasis reflects the committees' concern that adequate defense, and now victory, should not be hampered by lack of money. They feel that the power of the purse carries with it an obligation, and that if they supply all that is said to be needed, "the responsibility will not be on the Congress in the event there is a shortage of funds some place." In addition, both legislators and administrators want to avoid diversion of time and effort from other business to the processing of supplemental bills. And some members of the House Appropriations Subcommittee on the War Department desire to preserve its jurisdiction over Army supply bills, many of which have been handled by the deficiency subcommittees, whose attention is spread over a much broader range of government activity, so that their reviews of estimates have been less thorough than those of the other group. The Department has no objection to these inquiries about its condition. Occasionally its spokesmen advocate that the budget be exceeded without waiting for Congressional invitation; and officers sometimes make statements which are pretty sure to provoke questions to which obviously prepared answers will be relevant replies to "enlighten" the legislators. For the most part, however, the Army adheres to the letter of the law, i.e., it regards itself as bound by the de-

cisions of the Bureau of the Budget, acting for the President. If the Bureau or the Department has turned down, or has not passed on, a proposed expenditure suggested by a committee member, the officers testifying wash their hands of responsibility, warning that they do not officially advocate or recommend it—but almost never do they refuse to give their personal opinion or advice and to supply information upon which "Congress in its wisdom" may act. The Department is glad to have more money for its activities—if it is supplied by addition rather than by the internal readjustments in its budget which the committees do not hesitate to make; but it does not always agree with Congress about the priorities of the needs to which legislative increases apply.

In sum, while Congress, through its committees, concedes the propriety of administrative recommendations in military matters and tends to conform to them, it is conscious also of a constitutional and moral responsibility of its own. This feeling, reinforced by consideration of voters' opinions, accounts in part for its remaining in formal session almost constantly since 1939. "Assailed by doubts within and criticisms without," it has tried to discharge its obligation to provide for the common defense at the same time that it has sought to supply some safeguards to assure honesty and value received in the use of other people's money. Unprecedentedly large appropriations have "staggered" and "terrified" some Congressmen, but hesitation has been surmounted by the conviction that, once committed, "we cannot stop to count the cost." Some members think that the Army is playing safe by over-estimating needs, but the committees apparently believe that to assume an aggressive rôle (which they did not often do even in peace-time) would be unjustified and hazardous in time of war, when the burden of proof seems to be reversed so that it is for them to demonstrate that budget requests are excessive, which they have done only rarely since June, 1940: "I have not been able to say that the Army does not need this amount." Legislative responsibility, however, is felt not to be discharged merely by providing authorizations and appropriations. While estimating and expenditure are executive functions, Congress is not only cashier and counsel, but also controller and critic to administrators. It has exercised its prerogatives more in some areas than in others. Thus, formulation of statutory language is left largely to the Department, and the Administration is allowed broad discretion in organization and equipment; but the legislature has maintained a close check over some phases of personnel administration. Out of desire to avoid waste, Congress also has given considerable attention to construction and procurement programs, through the appropriations, military affairs, Truman, Tolan, and other committees. A post-war investigation of these matters is anticipated, but the use of standing and special committees prepared to make prompt inquiry into alleged abuses (which their very

existence might discourage) seemed sensible, particularly in view of the haste with which recent huge appropriations have been enacted.

RÔLE OF CONGRESSMEN NOT ON APPROPRIATIONS COMMITTEES

While the appropriations committees range widely (though not often deeply) over the operations of the Military Establishment, most Congressmen have devoted attention, if any, chiefly to those activities which have direct repercussions among their constituents. They have not been concerned greatly with how much, or for what, Army money is to be spent; but they have been interested in the points at which funds are to be used. Often, perhaps usually, there is ample basis for their requests at the hearings for funds for projects in their districts; so that cynicism on this score seems misplaced, although skepticism is appropriate about the members' competence to appraise the details and the comparative importance of such proposals. In peace-time, this provincialism was reflected in discussions about operations of small Army posts (supported by respectable military opinion) and supplying funds for their maintenance and repair, as well as about procurement of supplies from sources not merely domestic but also local. These Congressional cares have continued into the rearmament and war periods, but they have been overshadowed by new troubles. There has been little legislative talk about the location of training camps—possibly because these already are so widespread. But this silence is more than compensated by complaints about contract distribution and the location of government-financed production facilities. Congressmen and their constituents want not only that their districts should share in the war effort, but also that this participation should involve a minimum of disturbance in existing institutions, e.g., that poorer rather than better farm lands should be used for munitions plants. Here again, the fact that the voices of discontent are those of affected local interests may make suspect, but does not by itself invalidate, their case. There is much merit in assertions that plants located in the interior are less vulnerable to enemy attack than those along the coasts; that workers and machines engaged previously in production of civilian goods, but now idle, should have an opportunity to employ their capacities for military production; that contemporary and post-war economic and social dislocations resulting from concentration of Army orders in some sections and the migration of population from others should not be disregarded; and so on. The War Department speaks of compulsion to employ existing facilities and of impartial selection of sites, but concedes that it has been "quite sensitive" to such considerations; and, influenced no doubt by the legislative agitation, it has modified earlier policies of concentration—only to have some Congressmen from seaboard states express concern about this movement into the interior, as well as about adequate defenses

in the form of coast artillery, anti-aircraft, and other troops and equipment.

Congressmen not on the committees involved have contributed very little to the writing of Army supply bills. House practice has been to hold hearings in executive session and ordinarily not to release the printed record, report, and amended bill until the day or eve of the measure's consideration on the floor, so that informed discussion is confined chiefly to persons in the appropriations and military affairs groups. There is only occasional protest against this procedure, possibly because members realize that even if pertinent documents were available earlier, they still would not have the leisure or the "apperceptive mass" to absorb them. Their own comparative helplessness, coupled with appreciation of the contributions to competence and time-economy made by the committees, encourage, even compel, "faith" in them. This tendency has been reënforced lately by extensive omissions from the printed hearings. The committees have allowed administrators almost complete discretion in keeping information off-the-record, out of fear that otherwise assistance might be given to the enemy and "hysteria" might be encouraged at home. There have not been many complaints against secrecy from other members, to whom confidential data have been supplied despite danger that they may be relayed further. Congressmen have been reassured that appropriations for which they vote "sight unseen," since their uses are undetailed in bills or printed hearings, are not blank checks, but are based on elaborate justifications, for examination of which they must rely—as, in fact, they did in peace-time—on the committees, which probably provide adequate protection against abuse, since conscience and partisanship are sufficient safeguards against effective conspiracies of silence.

Floor action on the Army appropriation bills has been neither well attended nor very enlightening: "Some people do not listen and others listening do not understand." But there have been few criticisms from members, most of whom are disinclined to cast the first stone—understandably, in view of the committee system and the character of the debate, which is only a pale reflection of the hearings—themselves only a shadow of the operations of an extensive field establishment. The House subcommittee chairman customarily has made a general statement, and other members of the group have discussed various aspects of the bill, often repeating remarks of each other and of the report on the measure. In the Senate, Mr. Copeland, as head of the subcommittee, rarely made even an opening summary, but Mr. Thomas of Oklahoma has been more considerate, while other members of the group have taken little part in the proceedings, which, on the whole, have been perfunctory. Nor is discussion by those not on the committees usually concentrated on the Military Establishment. Instead, it tends to deal with related questions

such as foreign policy, lease-lend, and profit limitations, or is taken as an opportunity by legislators to unburden themselves of their varied troubles, from farm tenancy and the Townsend plan to the civil service and the F.B.I. In the first two Roosevelt administrations, the House spent as many as four or five days on the annual bill, while the Senate was inclined to be briefer, but occasionally engaged in prolonged debate on foreign policy. Since mid-1940, however, both houses have made quick business of the Army supply measures, most supplementals to which have been omnibus, so that even limited attention is spread thin. General satisfaction, lack of dissatisfaction, and indifference are reflected, also, in the usual absence of record votes on Army appropriation acts and in the smallness of the opposition to them.

IV. APPROPRIATIONS COMMITTEE INTERESTS IN MILITARY ADMINISTRATION

Of the various aspects of military administration, the appropriations committees seem to be interested least in organization. They have been anxious about the place of the National Guard, insisting successfully, for instance, on revision of the 1942 Army reorganization so as to provide the Guard's Bureau a more prominent location. They have expressed concern, also, about the status of the Air Corps, and about conflicting jurisdictions, duplications, jealousies, and inadequate coöperation between Army and Navy. Intra-departmentally, the committees sometimes have criticized agencies that some members think should be abolished or consolidated instead of being retained to provide occupation for allegedly supernumerary officers. Yet, while the streamlining of the Army last year evoked curiosity (Congressmen wanted, at least, to find their way around the new set-up: "Send us a chart."), there was little appraisal of the changes, perhaps because they were too recent—more likely because they were beyond legislative interest. Territorial organization is another matter. Here the business of consequence to legislators consists of vested interests in established posts and camps and new stakes in draft army cantonments and defense plants. It is doubtful whether the end result is increased military efficiency; but that is not the only value to be considered in administration.

Until the selective service act went into effect, Congressional interest in enlisted men was very limited. While many soldiers' problems are outside their jurisdiction, the appropriations subcommittees exercise authority over some of them and curiosity over others. In these matters, their most important single power probably is that of determining the size of the Army within the limits of the National Defense Act of 1920 (280,000 men) and later legislation. The committees sometimes have exceeded budget estimates. But they are inclined to go along with the President's

program; and, in the pre-war period, they were somewhat skeptical about a "mass army," while the War Department gave higher priority to additions of equipment than to enlisted strength after the latter reached 165,000 in the fiscal year 1939. On the other hand, during the debate on the draft law and, recently, on the distribution of limited manpower between military and civilian work, there has been considerable legislative disposition to question programs for expansion of the Army. In the past three years, also, the interest of Congressmen generally in the condition of the new citizens' army has increased greatly. Examples will indicate the range of their inquiries into the welfare of soldiers: the comparative merits of tents and wooden structures in cantonments; the warmth and fit of clothing; the adequacy of training; the quality of medical care; the pay of soldiers; the provision of free laundry and cleaning, postage, transportation, and life insurance; protection of soldiers against propaganda; and so on.

The concern of Congress with commissioned personnel has been more continuous and comprehensive than its consideration of problems of the Army's rank and file. For many years before the recent rearmament race, the War Department urged an officer strength of 14,000, but gave higher priority to expansion of enlisted strength to 165,000. Among the legislative obstacles to the former were the availability of little unused authorization and the lag in expansion of enlisted manpower, which acted as a drag, since the House committee felt that the ratio of officers to troops already was too high. Congressmen have shown considerable interest in the sources from which officers are recruited. While there is respect and admiration for the products of the Military Academy, there is also some suspicion that they tend to behave within the Army as a caste which discriminates against those who came to their commissions by other routes but supply valuable "new blood." This notion accounted for some of the opposition a few years ago to increasing officer strength through greater enrollment at West Point, even though the new appointments would have been largely in Congressional hands. It explains, also, the adoption of the Thomason Act of 1935, which set up a ten-year program for training 1,000 reserve officers annually and commissioning fifty of them in the Regular Army, and the greater generosity toward this scheme shown by the appropriations committees than by the Budget Bureau. This sentiment and a confidence in the competence of civilian components, as well as recognition of their political influence, have been responsible for Congressional solicitude about provision for the National Guard, R.O.T.C., and C.M.T.C. programs. During the Army's recent expansion, the appropriations committees have sought reassurances that abuses were not being perpetrated in the granting of "quickie" commissions to civilians, and that Congressmen's recommendations at least would not be held against candi-

dates for commissions. Legislative interest has extended beyond recruitment into other phases of personnel administration. Among the Army's peace-time officer-training institutions, the Military Academy has received the bulk of attention, although at the annual hearings Congressmen are given brief accounts of the other schools. They have displayed no disposition to attempt appraisal of the specialized curricula, although they have inquired about procedures for selection of officers to attend these institutions. Practical training is supplied by field exercises and maneuvers for which Congress sometimes has been reluctant or unwilling to supply as much as the Army has sought.

Pay of officers and movement of personnel within the commissioned service are controlled in considerable detail by substantive legislation, and the appropriations committees have not devoted much time to these matters. But they have questioned the fairness of the procedure by which decisions on advancement are reached, and the merits of the results, particularly in the case of the National Guard while in federal service; they have urged the War Department to select for active duty reserve officers who are young and in the combat arms rather than in the services; and they have even employed the annual supply bill as a device to force attrition of older officers in order to make room for their juniors.

In the highly technical business of equipment, Congress probably is dependent upon the experts more than in any other phase of military administration—as the broad discretion in procurement allowed to the Air Corps and Ordnance Department bears witness. An instance will point up the difficulties faced by appropriations committees anxious to provide effective weapons as well as not to waste money. Three years ago, a controversy over the respective merits of the Garand and Johnson semi-automatic rifles reached the Senate subcommittee, where, after extended testimony, a representative of the Johnson people suggested that if there were any doubt both weapons should be put into production. Senator Bridges replied: "You are asking this committee and Congress to take upon itself as laymen the responsibility of overruling the Army. We have to be pretty sure about it before doing that." Senator Thomas announced subsequently that jurisdiction really belonged to the Military Affairs Committee, and in 1942 he reported that "we . . . haven't heard of it since." This modesty, however, does not apply to all Congressmen or with respect to all weapons. In 1941, for instance, the Senate insisted on a severe reduction in a substantial ordnance fund strongly recommended by the War Department. There was much criticism, also, of the size of the reserve proposed under the 5,500-plane program of 1939; and Congress, like the Administration, was not easily persuaded to create an adequate war reserve of "critical" matériel. The committees felt that accumulated supplies would become obsolete and expressed preference for more re-

search and fewer frozen assets; but they did not always support study and procurement planning to the extent implied by such a policy. The appropriations groups have differed with the Army not only on quantities of weapons, but also on their quality. Among the tools of war criticized as being obsolete have been coast artillery, balloons, and horses, to be displaced, respectively, by land-based aircraft, autogiros, and motorized vehicles. The animals have been discussed at every annual hearing for the past ten years, the criticisms of some legislators being countered with defense by members from horse-raising districts and by Army insistence on the animals' utility in difficult terrain, etc.

Nor have procurement practices escaped committee scrutiny. There appears to be little disposition to abolish arsenals which are useful, *inter alia*, as yardsticks; but usually there has been some complaint about unfair, and even unlawful, competition with actual or prospective private manufacture of vehicles, rifles, etc. During its recent creation of new productive facilities, the War Department has found it desirable to reassure Congressmen that existing plants will be used whenever possible and that satisfactory arrangements will be worked out to avoid "undue" government competition in the post-war period. Before the war, very few "scandals" were uncovered, although occasionally the committees expressed suspicion of favoritism or other abuse in purchasing. Of late, perennial assertions of excessive profits have been accentuated, and Congress has responded to rumors by investigations, recommendations for renegotiation of contracts, and enactment of restrictions which have not been easy to devise.

V. LEGISLATIVE CONTROL OF MILITARY EXPENDITURES

The Army proposes and disposes of appropriations for the Military Establishment, subject to restraints by the War Department and the Bureau of the Budget both before and after action by Congress, which not only has adhered rather closely to estimates advocated by the Administration but also has authorized considerable discretion in expenditure of funds. The legislature has exercised close control over matters such as pay, designation of posts at which there is to be construction, and miscellaneous items which have aroused its anger or suspicion; but even in these cases the Army's recommendations have much weight, it being the practice of the committees to learn the reactions of the Department before enacting legislation. Administrative controls, however, are more numerous and more detailed than those contained in the statutes, which provide military funds in a comparatively small number of appropriation titles. After the President signs the supply bill, with its mandates and restrictions, the War Department sets up an expenditure program which adjusts earlier plans to modifications made in budget estimates by Con-

gress, and constitutes a "platform of operations" for its spending agencies. Within the appropriation titles, the Department may authorize the latter to shift funds to offset shortages for one need with overages for another, e.g., bombs to tanks, or to adapt expenditures to changed conditions, e.g., in types of planes to be purchased. By comparison, there have been few instances, until lately, of authority to effect transfers among appropriation titles. Congress has insisted on limiting both the titles subject to such shifts and the amounts of the reductions and increases, and the changes require approval both by the Department and by the Budget Bureau. The authority has not been used extensively, but its existence—like that of recent contingency funds—has been an administrative convenience, especially when appropriations are small and the demand on them is heavy or difficult to estimate. To some extent, the processing and enacting of deficiency measures, as well as the necessity of waiting on Congress before proceeding with urgent programs, are avoided; and the Army is able to alter its expenditure programs to make more effective use of its money. Congress not only has allowed transfers but also has relaxed its control by broadening appropriations through consolidations of previously separate titles. Such changes antedate the hostilities abroad; but the more significant ones were not made until shortly before or after our entrance into the war. These consolidations have been both "horizontal," merging related funds within a bill, and "vertical," bringing together and subjecting to uniform conditions monies for like purposes (notably construction) provided in a series of measures. For the spending agencies, such grouping of funds has many of the advantages of transfers, and it simplifies accounting procedure both in Washington and in the field, where financial administration may be in inexperienced hands and where the primary business of getting on with the war is aided by elimination of some of the peace-time formalities of bookkeeping.

Congress has not been enthusiastic about these developments. War has increased its reluctant willingness to allow funds to be interchanged, but expansion of this discretion must be reckoned temporary, as the committees have been careful to insist. Control of the purse strings is among the most powerful of weapons possessed by the legislature, and Congressmen dislike to curtail their legal authority, even though in using it for the Army they generally have followed executive recommendations. In fact, Congressmen usually have behaved as though aware that they are not competent to exercise close supervision and that effective administration is impaired if detailed directions are frozen into laws. Even so, the spending process is not "footloose and fancy free." Controls which might have been included in the statutes are contained, instead, in understandings between the committees and the Department. The expenditure programs are based on the justifications made at the hearings, and the

committees have indicated that they want reports on deviations from the latter. The intentions of Congress are revealed not only in the appropriation acts, but also in other legislation and in the reports of the committees. Neither the justifications nor the intentions are always clear, and legislators are not so thorough as they might be in their inquiries into past expenditures. Yet, in spite of the fact that some charges of violation of law occur at practically every session and that the General Accounting Office disallows some military payments, the Army appears on the whole to have lived up to the claim that "we are a law-abiding group."

The Department usually has been successful in securing Congressional approval of estimates for relatively small peace-time deficiencies and large preparedness and war-time supplementals. The War Department subcommittees have not been very critical of the practices leading to shortages, some of which have been due to their own excessive reductions. Nor have they indicated special concern about establishment of administrative reserves; although on a number of occasions they have become considerably exercised by Budget Bureau disregard of their disregard of estimates by additions which have been impounded: " . . . by the stroke of a pen, there was set aside the express will of the Congress. . . . " The feeling of Congressmen seems to be that it is one thing to withhold funds in the hope that a program may be completed without deficits, but altogether another "to absolutely eliminate some functions by taking out all of the funds provided." The choice of programs from which to withhold appropriations, however, has had more to do with strong legislative reactions than has this theoretical distinction.

INTERNATIONAL AFFAIRS

THE APPLICATION OF GERMAN GEOPOLITICS: GEO-SCIENCES

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The dominant feature of German geopolitical doctrine is an endeavor to unite man and his race, time and space, geography and history, peace and war, in a new, organic, and scientific whole. Geopolitics, therefore, chooses at random and at its own convenience among political ideas and anthropological, historical, geographical, and legal data. In an attempt to incorporate them into the body of a brand-new "science of the state," *Geopolitik* tries to apply its particular methods and basic principles to a wide sphere of "branch" sciences, such as psychology, medicine, and jurisprudence.

The all-pervasive influence of Haushofer's "portmanteau" science[1] is most clearly evident in the new names of these synthetic, combined branch-disciplines, as coined by German scholars. The broad category of *Geo-Wissenschafte* now includes at least *Geo-Psychologie*, *Geo-Medizin*, and *Geo-Jurisprudenz*, as the result of the attempts thus far made at creating an encylopaedic totalitarian "science."

I. GEO-PSYCHOLOGY

Geo-psychology, as the attempted organic combination of *Geopolitik* and modern psychology, is perhaps the most outstanding and earliest product of special "geo-sciences." First popularized by Willy Hellpach,[2] professor of psychology at the University of Heidelberg, this discipline studies the influences of space on men, on human intellect, character, and soul. Geopolitics being essentially a "political science of space," it cannot consider space by itself and completely dissociate it from the human element.[3]

[1] "Geopolitik ist eine Wissenschaft, die in den Bereich vieler Disziplinen eingreift." (Geopolitics is a science intruding into the realm of many disciplines.) Editorial statement on cover-page of the *Zeitschrift für Geopolitik*, Vol. 15, No. 12 (Dec., 1938).

[2] Among Hellpach's numerous contributions to this field, the most significant is his widely used textbook, *Geopsyche* (Berlin, 1935), which went through five editions in four years. Enlarging the scope of his geo-psychological studies, Hellpach published in 1938 his *Einführung in die Völkerpsychologie*. Several shorter articles, such as "Kultur und Klima," try to clarify the obscure and abstract principles of this "one-man" geopsychology. Cf. the collective work, *Klima, Wetter, Mensch* (Berlin, 1938).

[3] "Wer politische Raumwissenschaft zu treiben sich vorsetzt und in diesem Sinne *geopolitisch* bemüht sein mochte, der . . . muss immer Erlebnisse der Menschennatur in Frage stellen—der *Psychologie*." Hellpach, "Vom Dimensionalinstinkt zur

Space gains importance as an intellectual and psychological experience or *Raumerlebniss*, shared by every human being encompassed within the three dimensions of a terrestrial existence. While consisting of objective, physiographic features, space nevertheless asserts itself in man's life only through individual and subjective impressions and experiences. In Hellpach's opinion, the entire development of human civilization is a combination of millions of individual "spatial adventures"—reflected in such slogans as space conquest, expansion in space, claim to more space, disposal and division of space. Subjective personal feelings, views, or opinions—all of them products of individual psychological processes—cause men to occupy, change, leave, respect, avoid, improve, or neglect certain geographic areas.[4] Psychology and geography thus meet in space, and all spatial problems of our times are due to this perennial association of man and land.

When subjected to critical examination, however, the highly theoretical and abstract "science" of geo-psychology is found to be nothing but a slightly refined abstracted version of National Socialist "blood and soil" doctrines. It stresses the human side of the picture in a "scientific" attempt to stem the tide of land-based geographical determinism. Carefully hidden behind such scholarly expressions as "spatial endeavor" (*Raumwille*), or spatial instinct (*Rauminstinkt*), the student finds interesting practical applications of geo-psychology. The *Zeitschrift* frequently refers to psychological laboratories established in connection with individual provincial study groups of geopolitics,[5] either at some leading German universi-

Raumwillensschöpfung, Ein raumpsychologischer Beitrag zur wissenschaftlichen Geopolitik," *Zeitschrift für Geopolitik*, Vol. 17, No. 12, p. 609 (Dec., 1940). Italics are the author's.

[4] Hellpach's German terminology is much more expressive than its English translation. Discussing the subjective evaluations of space, or, rather, of the physiographic features of land, he writes: "Raumanspruch, Raumvorrecht, Raumzuteilung, Raumentziehung, Raumverfügung von den primitivsten bis zu den substilsten Erscheinungsformen haben einen wesentlichen Teil der zivilisatorischen Daeseinsgestaltung mitgeschaffen." "Vom Dimensionalinstinkt zur Raumwillensschöpfung," *Zeitschrift für Geopolitik*, Vol. 17, No. 12, p. 604 (Dec., 1940).

[5] The first veiled reference to these mysterious geopolitical laboratories is contained in a particularly violent article published in the *Zeitschrift* by the Heidelberg group of the *Arbeitsgemeinschaft für Geopolitik*. Arguing on the basis of "geopsychological experiments," conducted at the University of Heidelberg, members of this work-group angrily announce the final and ultimate superiority of racial doctrines and Aryan purity as against certain false anthropological assumptions on the equality of all races. Popular psychology, and not the rigid and lifeless forces of surrounding nature, are going to determine a nation's future life, concludes this important statement. Cf. "Späne der Arbeitsgemeinschaft für Geopolitik," *Zeitschrift für Geopolitik*, Vol. 15, No. 1, pp. 63–64 (Jan., 1936).

The University of Heidelberg seems to have been completely mobilized for purposes of scientific and military research in geopolitics. The indications are manifold. Heidelberg is the actual publication center of the *Zeitschrift*, the residence of the

ties or at local National Socialist party headquarters. Geo-psychological experts have apparently been given a chance to practice their new science upon troops selected for service in Africa or Russia, or upon individual "travelling agents" of *Geopolitik* setting out, for example, to the tropical regions of South America.

II. GEO-MEDICINE

In describing the preliminary "war-conditioning" of German armed forces or secret geopolitical agents, Nazi writers in this new field eventually reach the border-line between applied psychology and preventive medicine. The emerging branch-science of *Geomedizin* claims to study physical and mental diseases[6] in their relation to space, their origin, causes, and development within a given geographical area. It is a type of medical science that emphasizes the influence of natural environment and climate on human illnesses. Its most intensively developed and strategico-militarily most momentous aspect is geo-epidemiology, or *Geo-epidemie*. Both terms were coined by Professor H. Zeiss, who is hailed as founder of a new geomedical science.[7]

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powerful Kurt Vowinckel, who is not only co-editor and publisher of Haushofer's periodical but also an extreme Nazi and leading member of the party. The *Arbeitsgemeinschaft für Geopolitik*, the main study group of geopolitics under party auspices likewise has its national headquarters in Heidelberg, where its party leader, Dr. R. Wagner, resides. Wagner is the immediate subordinate of Alfred Rosenberg, and thus an important connecting link between the National Socialist party and the geopoliticians. Relations between the government and academic researchers, such as Professor Hellpach, seem to be closer and more "fruitful" in Heidelberg than in almost any other German city except Munich. For the very important official statement, signed by "A. Rosenberg" and dated May 31, 1938, cf. "Späne der Arbeitsgemeinschaft für Geopolitik," *Zeitschrift für Geopolitik*, Vol. 15, No. 9, p. 743 (Sept., 1938).

[6] Geo-medical writers pay particular attention to psychological phenomena and aberrations, giving full credit to Hellpach for having systematically developed the field. Man's psychological processes are just as much conditioned by space as by the biology of his body. Both body and mind vary and change under the impact of natural environment, maintains Wilhelm Rimpau, the geo-medical expert of Haushofer's *Institut* and of the *Zeitschrift*. "Geomedizin hat sich nicht nur mit den kausaler Forschung zugänglichen chemischphysikalisch ablaufenden Lebensvorgängen zu befassen, sondern auch *mit dem Irrationalen im Menschen, dem Seelischen, Geistigen.*" Wilhelm Rimpau, "Geomedizin," *Zeitschrift für Geopolitik*, Vol. 15, No. 12, p. 1013 (Dec., 1938).

[7] The mysterious H. Zeiss, whose "standard" book, *Einführung in die Hygiene und Seuchenlehre* (Stuttgart, 1936), is frequently quoted by leading geopoliticians but apparently not available outside of Germany, gives a most revealing and characteristic definition of the rôle of geo-medicine. "*Geomedizin* controls the health of the National Socialist state just as *Geopolitik* controls the state. Both are built upon the laws of blood and soil." Quoted by Rimpau, *Zur Geschichte der Geoepidemologie* (Berlin, 1937), p. 3.

Geo-epidemiology certainly does not seem to be a startlingly new discovery; it involves merely a thoroughly organized and coördinated attempt at combating epidemics. It requires, in addition to doctors, the coöperation of students of political geography, geology, and meteorology. According to Wilhelm Rimpau, it also needs the constant support of a "nationally socialized" medicine, of official state authorities encouraging and financing the study both in peace and in war-time. "Peace-time medical planning on a large scale," asserts Rimpau, "yields rich reward in the stormy periods of modern war."[8] It helps to tabulate and examine in advance epidemics which are typical of certain geographic areas, and also suggests ways of successfully fighting them.

German students of geo-medicine seem to have specialized early in surveys of the diseases of vital desert or subarctic regions to which modern warfare easily extends, but where climatic and natural conditions are adverse. They have focussed their interest on the epidemic appearances of *Cholera asiatica* and typhoid fever, reaching the conclusion that the spread of both epidemics depends mainly on the degree of moisture in the topsoil.[9] They are concerned with the frequency of these epidemic occurrences, particularly in the Far East, where the Sino-Japanese conflict has given rise to many important symptoms and test-cases, and in the European regions of Russia which were, according to official doctrine, long ago predestined to serve as battlefields for control of the Heartland.

Geo-medicine and geo-psychology thus form useful and important parts of an aggressive, world-wide geo-political scheme. Foreseeing the danger of frequent physical and mental disturbances and large-scale epidemics, the new geo-scientists intensively study the well-developed preventive means of modern medical science. Their task is not completed, however, with the outbreak of a long and secretly prepared total *Blitzkrieg*. Once geo-strategy has successfully conquered and destroyed parts of an enemy country or continent, geo-medicine alone is able, according to the Haushoferites, to reconstruct and rehabilitate the damaged hygienic conditions and health of the vanquished opponent.[10] The Nazi conquerors are not, however, in-

[8] "Geomedizin," *Zeitschrift für Geopolitik*, Vol. 15, No. 12, p. 1014 (Dec., 1938). Claus Schilling, director of the Robert Koch Tropical Institute in Berlin, reached the same important conclusion in an earlier article, "Seuchen und Geopolitik," *Zeitschrift für Geopolitik*, Vol. 13, No. 12, pp. 821–827 (Dec., 1936).

[9] Rimpau, "Geomedizin," *ibid.*; cf. also his "Entstehung von Pettenkofers Bodentheorie und die Münchner Choleraepidemie 1854," *Abhandlungen des Deutschen Medizin-Vereines*, Bd. 44, H. 7 (July, 1925).

[10] In Karl Haushofer's opinion, experts of geo-medicine did an outstanding job in preserving a high degree of "field hygiene" (*Feldhygiene*) throughout the Polish campaign of September, 1939. They prevented the outbreak of epidemics among the population of Warsaw and other big cities and were also instrumental in quickly removing all the remnants, ruins, and casualties of a "highly destructive (!)" lightning campaign waged by Germany. "Geopolitischer Neujahrs-Ausblick," *Zeitschrift für Geopolitik*, Vol. 17, No. 1, p. 3 (Jan., 1940).

terested in projects for enemy health improvement. Their real concern is with preventing the danger of widespread epidemics in occupied countries, thus eliminating a serious source of general infection and, more particularly, threats to their armed forces and supply of slave labor.

In view of Germany's present global warfare, the conquest and policing of large continental areas and the forced incorporation of millions of people into Hitler's New Order, geo-medical blueprints have gained added significance. Rimpau's remark in December, 1938, that "the close relationship between the concepts of *blood and soil* is in the last resort a geo-medical problem,"[11] has now acquired a sinister and realistic connotation.

III. GEO-JURISPRUDENCE

Geo-jurisprudence is perhaps the most surprising product of artificial crossbreeding between geopolitics and other sciences. It attempts to introduce the *Lebensraum* doctrine into international law and advocates the establishment of a new type of jurisprudence based on "the right to space and soil."[12] To the Nazi jurisconsults, there is no general, all-inclusive law for all peoples, races, and continents—no "spaceless universalism."[13]

They believe, instead, in the "legalization" of certain political principles and their application to definite areas. The students of *Geojurisprudenz* attempt to solve the "irrepressible conflict" between law and force by identifying international law with a new principle of power politics, that of the right to space.[14] *Geojurisprudenz* is itself a National Socialist theory of international law based on the idea of "spatial purity." Ini-

[11] "Die Verbindung der Begriffe *Blut und Boden* ist . . . letzten Endes ein geomedizinisches Problem," "Geomedizin," *ibid.*, p. 1014.

[12] "Erst recht ist sich der Geopolitiker einer Tatsache bewusst, wenn er gleichfalls dem Staat jene Doppelnatur des Körperlich-Ideellen rückhaltlos zuerkennt, und auch die nicht wegzuleugnende Spannung, die zwischen Recht und Macht besteht." Hans Offe, "Geopolitik und Naturrecht," *Zeitschrift für Geopolitik*, Vol. 14, No. 3, p. 245 (Mar., 1937).

[13] Hans Wehberg, "Universales oder Europäisches Völkerrecht? Eine Auseinandersetzung mit Professor Carl Schmitt," *Die Friedens-Warte*, Vol. 41, No. 4, p. 149. In denying the existence of a universal law of nations and advocating a peculiar brand of "spatial particularism," German jurists frequently contradict themselves. Carl Schmitt, for example, denies the universal character of international law, yet maintains that only a "bolshevist-nihilistic jurisprudence" can conceive of a law of nations which does not include every country. "*We belong to the legal community of all European peoples*," he proudly claims, thus conceding at least the existence of a European international law. *Nationalsozialismus und Völkerrecht* (Berlin, 1934), p. 17. Italics are mine.

[14] Adolf Grabowsky has given an excellent brief definition of *Geojurisprudenz* in declaring that it is nothing but a legal recognition of the relations between *space* and *law* (*Raum* und *Recht*). "Das Problem der Geopolitik," *Zeitschrift für Geopolitik*, Vol. 22, No. 12, p. 787 (Mar., 1933).

tially stressing the element of space, geo-jurists assert that world powers have a *natural right* to their living space.[15]

These "natural rights" gain expression in a regionalized form of international law. Each *Lebensraum* has its own set of legal principles based on the nature and requirements of the particular area. Geopolitics attempts to legalize the *Lebensraum* principle by maintaining that a new interregional law developed around the geographic areas of individual world powers. According to Carl Schmitt, the foremost exponent of *Geojurisprudenz*, this is the international law of large areas, *völkerrechtliche Grossraumordnung*. Every power-sphere of the world has the right to establish its own legal rules of conduct; Europe, Asia, and the Americas shall all have their own "spatially defined law of nations."

Geo-jurists do not describe the actual content of this international law, but are satisfied with setting up its general structure. Their methodology is similar to that of Kelsen's "pure theory of law," which forcefully distinguishes between the solid, formalized structure of law and its changing conceptual content. The Nazi geo-jurists, however, find it impossible to give a comprehensive description of international legal principles because these are in a constant flux and subject to change in time and space. In discussing his interesting views on a "law of nature," Hans Offe, one of the outstanding Nazi writers on this sector of the geo-juristic front, takes up and repeats Stammler's well-known phrase concerning a "law of nature with changing content,"[16] claiming that there is a natural law for every nation. Every people has its own fundamental principles of natural law which serve as a foundation for their positive legal system. In his view, natural law describes the rights with which every man is born, while geopolitics describes the environment in which man is born.[17] Positive law is the legal system that is actually valid and prevails in a given geographic area. *Geojurisprudenz* plays the rôle of a mediator among these three phenomena, attempting to apply natural law principles to a system of

[15] Writing in an ebullient mood shortly after the victory of the National Socialist Revolution, one of the earlier Nazi international lawyers declared that Nazi international law is embedded in the blood and soil of the people. The law of nations itself, rests on the right of a people to existence, this being a "natural right" (*Lebensrecht ist Naturrecht*). In keeping with the dynamic expansionism of the Third Reich, the later writings of Nazi geo-jurists seem to have changed this fundamental "natural right" of peoples, or rather of the German people, from a right to live into a right to living space, their guiding principle being, in essence, that *Lebensraumrecht ist Naturrecht*. The racist principle of *Blut und Boden* seems to be pressed into the background and the concept of *Raum*, not merely of space but of an unlimited geographic area, is now deified by obedient Nazi geo-jurists. Cf. Helmut Nicolai, *Rasse und Recht* (Berlin, 1933), p. 23 *et seq.*

[16] Cf. Rudolph Stammler, *Die Lehre vom richtigen Recht* (Berlin, 1902), p. 102.

[17] Cf. Hans Offe, "Geopolitik und Naturrecht," *Zeitschrift für Geopolitik*, Vol. 14, No. 3, pp. 239–246 (Mar., 1937).

positive law. *Geojurisprudenz*, then, is the doctrine of political and legal relativity. Its geographic determinism renders the political system and legal structure of the state dependent on an environment of relative value.

The governing and motivating principle behind *Geojurisprudenz* seems to be a regionally applied "Monroe Doctrine," relating the principles of non-interference and non-intervention to an ever greater area. This obviously involves complete "international" legal freedom for each one of the three main regions, and leads to the undisputed supremacy of German law in Europe, Japanese law in Asia, and American law in the Western Hemisphere. Unhappily, *Geojurisprudenz* stops at this point and does not offer any guidance as to the legal relationships of individual greater areas, or *Grossräume*. Geo-jurists themselves suggest only a few concrete means of legal expression of their ideology, such as the principles of non-interference, warnings, and, in exceptional cases, intervention, as the strongest means of asserting their primacy and influence.

Beyond these crystallized points, their new "international" law is vague, colloid, and obscure. The critic is driven to ask how, after establishing their own legal systems, the three main power regions are going to communicate with each other. What kind of law will be applied, for example, in citizenship or prize law cases arising between a German-dominated Europe and a Western Hemisphere under United States leadership? Geo-jurists erect the legal barrier of non-interference around the "great areas," or living spaces, of certain world powers, but forget to set up legal norms governing the relationships of these regions, *inter se*. Their attempt to revise an obsolete international law is a failure at the very outset because of the destructive, strictly negativist, and nebulous approach of its geojurist authors.

This version of a "spatially purified" international law refuses to accept the idea of a universal law of nations. Professor Carl Schmitt bitterly attacks "old fashioned" international law as it developed between 1790 and 1933.[18] This international law tried to be a general, all-embracing legal system applying to all peoples, races, and continents. Instead, it developed into an inadequate camouflage for Western European imperialism. It legalized certain internationalist,[19] pacifist ideals and attempted to per-

[18] Between 1919 and 1933, international law had a period of short-lived renaissance extending, however, only to a development of procedural international law. The League of Nations, with all its committees and conferences, the various tribunals of arbitration, and, above all, the Permanent Court of International Justice, were the institutionalized instruments of a "procedurally revived" positive international law. This type of a legal structure, Schmitt mournfully concludes, inevitably led to a most undesirable extension and expansion of international legal norms, or to a *Normeninflation*. Cf. Schmitt, *Nationalsozialismus und Völkerrecht*, p. 9 et seq.

[19] While Schmitt attacks the universal aspects of old-fashioned international law, Hans K. E. L. Keller, the other outstanding representative of *Geojurisprudenz*, criticizes the law of nations for its "internationalism." However, when Nazi lawyers

petuate to Germany's disadvantage the balance of power exemplified in the Treaty of Versailles and the League of Nations. The "European concert" of nations, as Schmitt refers to it, conceived of international law as a solid and single legal system. Western European nations were convinced that this "law among nations" could be stretched at their leisure and subjected to quantitative processes of enlargement or reduction. In geo-juristic opinion, these were completely erroneous conceptions; for international law, like domestic law, is based on ethnic and geographic realities, and not on universal, natural law principles. There is no "peacefully unified" law equally applicable to all peoples and regions. A boundless and transcendental system of international law would never recognize the natural variations and differences of popular thoughts, attitudes, or geographic locations.

In advocating the hegemony of certain world powers, National Socialist international lawyers emphatically deny the idea of an equality of states. As they conceive it, state equality is another typical result of obsolete juridical positivism. By using it as a convenient cloak, the principal world powers have, in the past, followed their own egotistic objectives in power politics.[20] States are *not* equal, and treaties do *not* have to be observed—such is the dogmatic conclusion of Nazi lawyers who are unable to understand the past "worship" of international treaties by large and small nations alike.[21] Because regional, political, and military pacts have, in the past, failed to settle questions pertaining to geographic areas, the real world powers will have to establish their own "spatial doctrines" of international law in the future. State equality will yield its place to regional power-hegemony and, instead of international treaties, there will be new legalized principles "relating to greater areas."[22] In the Monroe doctrine

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blame international law for its "internationalism," they use the term as the equivalent of Western European imperialism and of a Continental balance of power. "Internationalism," declares Keller, "is the propagandist form of a very definite state imperialism in foreign policy." The obvious political objective consists here in a complete elimination of the former balance of power idea as the basis of international law and security. Cf. Keller, "Einheit und Vielfalt im rechtlichen Weltbild," *Zeitschrift für Geopolitik*, Vol. 14, No. 3, p. 247 (Mar., 1937).

[20] Regarding the Great Powers "of the past," Carl Schmitt declared in 1926 that England and France "were always ready to give up the aims and interests of smaller states but never their own." Cf. *Die Kernfrage des Völkerbundes* (Berlin, 1926), Introduction, p. ii.

[21] Again, Hans Keller states one of the fundamental principles of geo-jurisprudence when he declares that international treaties are mere scraps of paper, and adds emphatically, "*Confronted by life, every contract is a scrap of paper.*" "Völkerrecht von Morgen," *Zeitschrift für Völkerrecht*, Vol. 17, No. 5, p. 366 et seq. (May, 1933). Italics are mine.

[22] This is the new international legal order, or *Grossraumordnung*, as defined by Schmitt. According to Gerhart Niemeyer, modern German conceptions of interna-

the Nazi geo-jurists see a first genuine attempt at regional non-interference; this, they hold, shows the road which the future development of their type of international law will travel.[23]

Spatial international law clearly reflects the totalitarian aspects of *Geopolitik*. In earlier racial theories centered around the slogans of *Blut und Boden*, the expression *Boden* referred to a racially purified, strictly German soil in the heart of Central Europe. Geo-jurists now shift the emphasis to large space (*Grossraum*), and keep thinking in terms of a world empire, or *Weltreich* including both German and non-German land. They discard the racial idea and substitute instead the geopolitical domination of space. The spatial theory of law thus embraces the totality of power within a geographic area of world-wide dimensions. International law and an unlimited hegemony of continental or world powers are, however, politically and legally irreconcilable concepts. The strenuous efforts of Nazi geo-jurists are totally incapable of "legalizing" hegemonical politics. Hegemony in itself will never revitalize an old, archaic, and now obsolete law of nations, while its "methods, direct or indirect, are so multiform that it is practically impossible to incorporate them within a definite system."[24]

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tional law tend to eliminate and transcend the national state, constructing new legal, political, and economic units, or regions. This "disruptive" influence rests on German historical traditions, explains Niemeyer. The disintegrated medieval *régime* of feudal lands, estates, corporations, and "quasi-military commercial unions, such as the Hansa," embraced all international groups of common interests. These internationally recognized groups "everywhere disrupted and transcended the political enclosure of state territories." Cf. "International Law and Social Structure," *American Journal of International Law*, Vol. 34, No. 4, p. 393 *et seq.* (Oct., 1940).

[23] The idea of regionalism, based on power-zones or spheres of exclusive political interest, is not a new one in National Socialist international law. Ever since 1933, Nazi jurists have consistently and loudly argued that racially uniform groups of people ought to have legal systems of their own. Geo-jurists now merely substituted space for race, *Raum* for *Rasse*, and projected these demands for individualized systems of "international" law into the new dimension of the "large area" (*Grossraum*). The political motive underlying these racial and spatial theories is fairly obvious. Both aim at the elimination of any international legal organization and try to liberate the modern, totalitarian "racial" or "spatial" state from all internationally binding legal or moral commitments. Cf. Eduard Bristler, *Die Völkerrechtslehre des Nationalsozialismus* (Zürich, 1938), pp. 121–122.

[24] Charles Kruszewski, "Hegemony and International Law," in this REVIEW, Vol. 35, No. 6, p. 1143 (Dec., 1941). Even some of the geopolitical writers have noticed the convenient vagueness and startling indefiniteness of geo-jurisprudence. As early as May, 1935, Eugen Langen attempted to define the essence of *Geojurisprudenz*. The result of his efforts is surprisingly meager. "*Geojurisprudenz*," maintains Langen, "is built on the recognition of the spatial purity of nations and advocates the legal control of certain areas." "Zur juristischen Geopolitik Europas," *Zeitschrift für Geopolitik*, Vol. 12, No. 5, p. 301 (May, 1935).

Geojurisprudenz is thus neither law, nor geography, nor politics. It is the projection of National Socialist power dreams and wishful spatial thinking into the sphere of jurisprudence. As such, it represents a futile and hopeless quest for legality where human faith is missing and where no moral values of any sort exist to support the law. Twentieth-century international law, having its own *élan vital*, refuses to degenerate into a cold-blooded and mechanistic manipulation without morals. The law of nations is not a mere collection of "slogans of diplomacy," such as "manifest destiny," the "white man's burden," or *Lebensraum*. Geo-jurisprudence and Nazi international law may be convenient symbols or weapons for a fascist propaganda anxious to win the support of world opinion, [25] but in becoming amoral and totalitarian they have, like German *Geopolitik*, lost their scientific character and reason for existence. They are inherently incapable of fashioning even a formal system of legality between states, while the principles of hegemony and subordination, essential to a *Führer-staat*, preclude the emergence or development of substantive legality in the "New Order."

TREATIES, EXECUTIVE AGREEMENTS, AND THE PANAMA JOINT RESOLUTION OF 1943

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A recent Congressional debate appears to have been one of the opening skirmishes on the question of whether the postwar commitments of the United States should be accepted by treaty or by unfettered executive discretion. On August 13, 1942, President Roosevelt transmitted to Congress a request for the passage of an enclosed draft joint resolution ostensibly "authorizing the execution of certain obligations under the treaties of 1903 and 1936 with Panama, and other commitments." The President's message, after referring to the "thoroughly coöperative" attitude of the Panamanian Government in the present crisis and stating that "on March 5, 1941, the President of the Republic of Panama issued a manifesto making available for use by the United States certain defense sites in the territory of that Republic," added that the time had come to make certain concessions long desired by the Republic of Panama. "Accordingly," continued the message, "I deem it advisable that this Government convey

[25] Cf. Philip C. Jessup, "The Reality of International Law," *Foreign Affairs*, Vol. 18, No. 2, p. 246 (Jan., 1940). Quincy Wright uses even more expressive language; "The relation of totalitarianism to international law is one of incompatibility. If totalitarianism triumphs in the present war, international law will suffer a severe decline from which it may not recover." Cf. his "International Law and the Totalitarian States," in this REVIEW, Vol. 35, No. 4, p. 743 (Aug., 1941).

to Panama the water and sewerage systems in the cities of Panama and Colon; that it relinquish its extensive real-estate holdings in the cities of Colon and Panama, so far as these holdings are not essential to the operation and protection of the Canal; and that it liquidate the credit of two and a half million dollars made available to the Republic of Panama by the Export-Import Bank for the construction of Panama's share of the Chorrera-Rio Hato Highway, a road essential to our defense requirements and constructed in accordance with standards made essential by these requirements."[1]

On December 4, 1942, the Senate amended and approved the joint resolution after considerable discussion; but the House of Representatives failed to act upon it prior to the adjournment of the Seventy-seventh Congress. The measure was reintroduced in the Seventy-eighth Congress as House Joint Resolution 14 and approved by the House of Representatives on April 13, 1943, and by the Senate on April 26, 1943, by a vote of 37 to 19.[2]

Although there was some objection to the proposal on its merits and because no provision was made for the satisfaction by Panama of certain pending claims preferred against the Panamanian Government by American nationals,[3] the chief opposition was directed against the use of the method of joint resolution, instead of the treaty-making power, to accomplish the transaction. A study of the Congressional debates reveals a strong undercurrent of uneasiness at the manner in which the Chief Executive has consistently deprived the Senate of its constitutional prerogatives in the making of treaties, by negotiating "executive agreements" rather than treaties. Senator Robert Taft of Ohio stated[4] that "no treaties of any importance have been submitted to the Senate since I have been a member of the body," and questioned the wisdom of embodying important matters such as the Atlantic Charter, the Declaration of January 1, 1942, by the United Nations, the master lend-lease agreements, and possibly the future peace settlements, in executive agreements rather than in treaties. Even from those senators who favored the passage of the Panama joint resolution came expressions that it should have taken the form of a treaty, and that the post-war peace settlement should be embodied in a treaty subject to the advice and consent of the Senate.

[1] Cf. Senate Report No. 201, 78th Cong., 1st Sess. (April 22, 1943) on H. J. Res. 14, Authorizing the Execution of Certain Obligations under the Treaties of 1903 and 1936 with Panama, Part 1, pp. 2–4. The Minority Views are contained in Part 2.

[2] Cf. *Cong. Rec.*, 77th Cong., 2nd Sess., Dec. 3, 4, 1942 (S. J. Res. 162); *ibid.*, 78th Cong., 1st Sess., April 13, 26, 1943 (H. J. Res. 14); approved by the President, May 3, 1943, Public No. 48.

[3] Cf. the remarks of Senator White of Maine, *ibid.*, Vol. 88, pp. 9595–9596 (daily ed., Dec. 3, 1942), and S. Rept. No. 1720, 77th Cong., 2nd Sess. on S. J. Res. 162, p. 6.

[4] *Cong. Rec.*, Vol. 88, p. 9597 ff. (daily ed., Dec. 3, 1942).

The specific justifications alleged for embodying the Panama transaction in the form of a joint resolution instead of in a treaty were: (1) that it involved an appropriation, and, even if a treaty had been made, the subsequent action of both houses of Congress would have been necessary; (2) that it involved the disposition of property belonging to the United States, a power given to Congress by Art. IV, Sec. 3, of the Constitution; and (3) that it "really" carries out certain obligations assumed under the treaties of 1903 and 1936 with Panama.

However, the mere fact that legislation is necessary to implement a treaty is not conclusive on the question whether, in principle, the method of joint resolution should be substituted for the treaty method envisaged by the Constitution. Even as a matter of expediency, there appear to have been cogent arguments for embodying the Panama transaction in an international agreement. Examination of the joint resolution reveals that it seeks to impose at least two obligations of an international legal character on the government of Panama. By section 1, which authorizes the President to transfer to Panama the water and sewerage systems owned by the United States Government in the cities of Colon and Panama, it is provided "that pending the establishment of an independent water-supply system, and so long as the Republic of Panama desires to utilize a supply of water from the Canal Zone, it shall pay quarterly to the appropriate Canal Zone authorities the rate of B/0.09 per one thousand gallons or such other reasonable rate as may be agreed upon by both Governments." How can the passage of a joint resolution by the United States Congress impose an international legal obligation on the Government of Panama? Senator Hiram Johnson of California observed of this stipulation that "if there were nothing else in the whole transaction than that one paragraph, it would seem to me a certainty that we must exercise the right which is ours to pass upon this document as a treaty, rather than accept it as a mere proposal for legislative enactment."[5]

The other obligation which the joint resolution seeks, by implication, to impose on the Government of Panama has to do, in part, with the much disputed reversionary "rights" of the Government of Colombia to the valuable real estate owned by the Panama Railroad Company in the cities of Panama and Colon. It will be recalled that in a series of concessions, consolidated in 1867, the Republic of New Granada had granted to the Panama Railroad Company the use of certain lands for 99 years, after which they would revert to the government of New Granada. Assertedly,[6] these reversionary rights were acquired by the Republic of Panama by virtue of her independence and her recognition by the Republic of Colom-

[5] *Ibid.*, p. 9642 (Dec. 4, 1942).

[6] It is unnecessary here to enter into the legal merits or details of this controversy.

bia. By the treaty of November 18, 1903, the reversionary rights to the land in question were transferred by Panama to the United States Government. By Sec. 2 of the joint resolution of 1943, the Panama Railroad Company is authorized to convey to the Republic of Panama such of the lands in question as are not necessary for the operation, maintenance, sanitation, or defense of the Canal, and any such conveyance "shall be deemed to release any and all reversionary rights of the United States in said property."

Partly because the alleged reversionary rights of Colombia raised their ugly head again in the debate,[7] the Senate saw fit to add the following proviso to Sec. 2: "*Provided*, that any such instruments of conveyance shall contain a provision under which the Panama Railroad Company and any of its successors in interest agrees to fully protect the Government of the United States against any claims for damages or losses heretofore or hereafter incurred by any lessee of any of the lands covered by such conveyance."

The amendment requires some comment. First, let us turn to the debate in the U. S. Senate on December 4, 1942:

"Mr. McCarran: The curious thing about it . . . is that the United States is the owner of all the stock of the Panama Railroad Company. . . . So, by agreeing to the amendment, we should be asking the United States Government, as owner of all the stock of the Panama Railroad Company, to indemnify itself; should we not?

Mr. Gillette: . . . the amendment provides that the instrument of conveyance shall contain a covenant that the Panama Railroad Company . . . . and its successors in interest shall hold the United States free and clear; and, of course, the "successor in interest" will be the Republic of Panama. . . .

Mr. McCarran: Will that mean, then, that by passing the joint resolution we can bind the Republic of Panama to hold the United States free and clear from such charges?

Mr. Connally: No . . . it does not undertake to do anything to Panama, but simply provides that when any grantor conveys title to a piece of property he may provide in the deed of grant any condition that he may see fit to provide. . . .

Mr. McCarran: Then, we merely get back to the same homely, horse language . . . that the Government of the United States is to indemnify the Government of the United States. . . .

Mr. Gillette: . . . the amendment . . . will require that under the in-

[7] Senator Gillette of Iowa, who introduced the amendment, was not sure that Colombia had been divested of her reversionary rights, although his amendment was not directed exclusively to that question. Cf. *Cong. Rec.*, Vol. 88, pp. 9604 ff. (daily ed., Dec. 3, 1942).

strument of conveyance the grantee which becomes the successor in interest, namely, the Republic of Panama, will hold the United States free from any claim for damages arising under breach of the covenants of the lease."[8]

It should be clear that no international obligation is imposed on Panama by the passage of the joint resolution, as amended. Moreover, the Senate Committee on Foreign Relations, in its Report No. 201, 78th Congress, p. 5, appears to be inaccurate in stating that "through the enactment of this legislation" the United States "will cease to own" the utilities and "relinquish title" to the land. It is the "instrument of conveyance," not the joint resolution, which would constitute the international agreement stipulating rights and obligations for the Government of Panama. The necessity for such an international instrument raises again the question why the method of joint resolution was preferred to the treaty method.

The Ethiopian in the wood-pile appears to be an unpublished executive agreement concluded with Panama by exchange of notes on May 18, 1942. The title of the joint resolution—"authorizing the execution of certain obligations under the treaties of 1903 and 1936 with Panama, and other commitments"—was objected to in the Senate minority report "as an attempt to mislead the Senate and House into the impression that they are merely carrying out existing obligations—contrary to fact."[9] Examination of the treaties of November 18, 1903, and March 2, 1936,[10] between Panama and the United States reveals no obligation upon the United States to make any of the concessions to Panama as stipulated in the joint resolution. In a rather far-fetched attempt to justify the joint resolution method as "really" carrying out obligations assumed under Articles II and X of the 1936 treaty with Panama, Senator Connally gave away his case. Articles II and X provided that if, because of unforeseen contingencies, the United States needed additional defense sites in Panama, the two governments would consult.

Said Mr. Connally: "Mr. President, that is just what we have done. Incidents or contingencies arose. The governments were consulted. Panama gave us the military fields, and on our part, *without any obligation to do so*, without any contract or compact, since Panama had been irritated by these things over a long period of years, we simply decided that we would do what is proposed [in the joint resolution] more or less in appreciation of what Panama had done."[11]

[8] *Ibid.*, p. 9648 (Dec. 4).

[9] S. Rept. No. 201 (cited), Part 2, p. 4.

[10] Cf. U. S. Treaty Series, Nos. 431 and 945, particularly Arts. II and X of the 1936 treaty.

[11] *Cong. Rec.*, Vol. 88, p. 9605 (daily ed., Dec. 3, 1942). Italics supplied.

There was no obligation under the treaties of 1903 or 1936, but apparently an obligation had been assumed by the United States—subject to the approval of Congress—on May 18, 1942. Corroboration of this is found in a Department of State press release of that date. In publishing the text of an executive agreement between the United States and Panama, signed May 18, 1942, in Panama, by which the United States leased certain defense sites in Panama, the Department announced the conclusion of a second executive agreement reached the same day by exchange of notes in Washington. Although the text of the second executive agreement was not published, the Department stated that agreement "has been reached" with Panama to transfer the water and sewer systems to Panama, to convey the real estate owned by the Panama Railroad Company, and to pay Panama's share of the cost of the Rio Hato Highway, adding that "the agreements reached on these three points will be submitted to the Congress of the United States for approval."[12] Representative Sol Bloom's statement in the House of Representatives on April 13, 1943, that "both these agreements stand on their merits, neither is contingent on the other,"[13] is apparently negatived by the attitude of Panama in withholding ratification of the agreement leasing defense sites until the United States Congress acted on the joint resolution; and the existence of the unpublished Washington executive agreement of May 18, 1942, is probably the explanation for Senator Connally's remark that "another reason why it is not necessary to embody the provisions of the joint resolution in a treaty or treaties is that so far as Panama is concerned, most of the results sought to be attained by the joint resolution [*sic*] have already been accomplished. We already have the sites. . . ."[14]

The Panama agreement of May 18, 1942, for the lease of defense sites is apparently regarded by the United States as an "executive agreement" which need not be submitted to the Senate, and by Panama as a "treaty," since Art. XIV stipulates that "this Agreement will enter into effect when approved by the National Executive Power of Panama and by the National Assembly of Panama."[15] The text of the second executive agreement of May 18, 1942, appears not even to have been submitted to the U. S. Senate for its information. There would seem to be no objection in principle to the concessions made by the United States in return for the important defense sites in Panama, but unless the devious methods employed to deprive the Senate of its constitutional authority in the making of treaties are soon abandoned, the nation may be faced with a Senatorial revolt at precisely the critical time when the United States is called upon to assume a larger rôle in the post-war settlement.

[12] Cf., Department of State Bulletin, Vol. VI, No. 152 (May 23, 1942), p. 448.
[13] *Cong. Rec.*, Vol. 89, p. 3383 (daily ed., Apr. 13, 1943).
[14] *Ibid.*, Vol. 88, p. 9588 (daily ed., Dec. 3, 1942).
[15] Department of State Bulletin, cited, p. 452.

INSTRUCTION AND RESEARCH*

A CHALLENGE TO POLITICAL SCIENTISTS

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When the American form of government and our democratic way of life hang in the balance of armed conflict, the political scientist feels impelled more than ever to rally to the defense of these values. He writes volumes to defend our system and to attack the systems of our enemies. He writes political philosophy and political ethics—just plain politics is forgotten.

The uninformed layman might expect from his title that the political scientist would be an expert in the analysis of political processes in his own community. He would be disappointed. The following comment made by Aristotle centuries ago applies with equal validity to the problem of political science today: "Must we not admit that the political science plainly does not stand on a similar footing to that of other sciences and faculties? I mean that while in all other cases those who impart the faculties and themselves exert them are identical (physicians and painters, for instance), matters of Statesmanship the Sophists profess to teach, but not one of them practices it, that being left to those actually engaged in it: and these might really very well be thought to do it by some singular knack and by mere practice rather than by any intellectual process; for they neither write nor speak on these matters (though it might do more to their credit than composing speeches for the courts or the assembly)...."[1] Since the politician of today remains inarticulate when it comes to discussing his methods for publication, the responsibility of building a science of politics, if there is to be such a science, continues to rest with the political scientists.

A fundamental difficulty is that most political scientists are not interested in politics. For years, they have been preoccupied with the more respectable disciplines of political theory, public administration, and international law, whose connections with practical politics are more or less remote. Many have taken an interest in the study of democracy and dictatorship, but this tends to result in ideological arguments, philosophy, ethics—anything but science.

In this country, only a few scholars have been content to probe into the processes of politics. The methods they have used, while providing

* The author of this article is a social anthropologist who arrived at the views which he expresses while endeavoring to probe into the backgrounds of political organization in a slum district. MAN ED.

[1] *The Nicomachean Ethics* (Everyman's ed., London: J. M. Dent and Sons, Ltd., 1940), p. 260. I am indebted to the late Professor L. J. Henderson for drawing my attention to this passage.

much interesting information, have been subject to certain limitations. Some of these men have sought to understand politics through making personality studies of politicians. In 1930, Harold Zink published an ambitious research of this nature. His *City Bosses in the United States*[2] deals with twenty individuals. Introductory chapters are devoted to comparisons of personalities, domestic and social relations, relations with business, and individual careers. Zink then takes up the bosses one by one, devoting a chapter to each one. His final conclusion is that political bosses cannot be explained by comparing their personalities, because they seem to have few characteristics in common.

Harold Lasswell has applied the psychiatric approach to the study of personality in politics.[3] While this enables him to make a more sophisticated analysis, it does not take us beyond the conclusion reached by Zink. A scientific study of politics requires the discovery of certain uniformities or laws, and the bewildering complexities of personality seem to offer little hope of immediate advance along these lines.

Having reached a negative conclusion upon the personality study, Zink abandoned personal factors in favor of the purely formalistic approach which has long been characteristic of political scientists. In discussing political organization, he had this to say: "The boss not only then attains his authority through extra-legal and unofficial application of sheer will and physical force, such as might prevail in a pirates' crew, but he exercises his power through equally unofficial and irregular means."[4]

This quotation illustrates some of the difficulties which plague political science today. We can observe actions, but we cannot observe the "application of sheer will"; nor do political bosses become more understandable through comparing them with pirates, who are known to us primarily through romantic literature. The emphasis upon "extra-legal," "unofficial," and "irregular" gives evidence of the middle-class prejudice that it is wrong for a man to hold a position in politics to which he has not been elected or appointed in accordance with the United States Constitution, the federal law, the state constitution, the state law, the city charter, or city ordinances. In politics, as in every other field, there are certain personal relations which are officially recognized by the formal organization and others which develop informally with the functioning of groups of men. Many political scientists are troubled to find a gap between informal and formal organization and devote much of their energies to exhortations that the unofficial be made to conform to the official. Little effort is devoted to a study of informal organization in its own right.

In accordance with the predominantly evaluational approach to politi-

[2] (Durham, N. C.: Duke University Press.)

[3] *Psychopathology and Politics* (Chicago: University of Chicago Press, 1930).

[4] *Government of Cities in the United States* (New York: The Macmillan Co., 1939).

cal phenomena, corruption has always been one of the main preoccupations of political scientists. Now what is and what is not corruption is a matter of definition. We cannot observe corruption *per se;* we can only observe behavior which is defined as corruption by the observers. In politics, corruption is generally said to exist when the political organization does not function according to its official rules, when men in it have relations with others which are prohibited by law or by certain ethical standards, and derive profit from such relations. This sort of definition divides all political behavior into two categories—the good and the bad. Certainly the long history of attempts to deal with social phenomena in these terms should convince us of the inadequacy of such an approach. After a career devoted largely to exposing the "evils" in government, Lincoln Steffens concluded that "good" and "evil" were not significant categories for the analysis of political behavior.[5] Nevertheless, scholars have continued to pursue their researches much as before. They have been forced to acknowledge that reform waves do not permanently destroy corruption, but they have fallen back upon the hope that a gradual evolution is improving this condition. Ethics has thus remained one of their primary interests.

Even those who have furnished us with some of the most detailed factual material on politics have been unable to curb their personal prejudices in presenting the data. If the author does not pass judgment explicitly, he colors his presentation with a word here and there heavily loaded with his ethical views. For example, Harold F. Gosnell writes in this way: "In viewing the wreck of his party, one Republican ward committeeman said: 'In my opinion, the Democrats have now greater power than any party has ever had in Chicago. Before they secured it, they promised open consultation and decision on all matters. Now it is practically impossible to see anyone in the city hall.' This Republican boss was not complaining about any changes in government policies brought about by the Democrats; he was *whining* about his loss of patronage."[6]

Simply by using the word "whining," Gosnell lets us know that in his opinion the boss was expressing a reprehensible attitude. Had Gosnell wished to take issue with an action of the League of Women Voters or the Chamber of Commerce, he would no doubt have used a more dignified term. The Republican boss can be dismissed summarily by appealing to the sentiments of the respectable middle class readers. Evidently it is not enough for the scholar to describe and analyze political processes. He also feels impelled to assure his readers that he possesses the proper moral sentiments.

Political scientists in the United States have been further handicapped

[5] See *The Autobiography of Lincoln Steffens* (New York: Harcourt Brace and Co., 1931).

[6] *Machine Politics: Chicago Model* (Chicago: University of Chicago Press, 1937). Italics mine.

by unquestioning acceptance of the democratic ideology. John T. Salter is authority for the statement that "We have no hierarchy of classes, and therefore no hierarchy of values."[7] The sociologist recognizes that this is not a statement of fact, but an expression of belief in the ideology of our democratic society. Unfortunately, this attitude has a very limiting effect upon the nature of research. A political organization is a system of personal relations which binds together men of different grades of prestige, authority—and social position. The scholar cannot explain the personal relations within the system nor the relations of the political organization to the rest of the society unless he is willing to study the political organization against the background of the social structure. No progress can be made until the political scientist recognizes explicitly that he is dealing with a stratified society and discovers some systematic way of dealing with politics in these terms.

Thus far, most of the important contributions to our understanding of politics have been made by men outside of academic life. We need not go back to Machiavelli to substantiate this conclusion. In more recent times, in our own country, the first realistic discussion of personal relations in politics was given us by a politician in *Plunkitt of Tammany Hall.*[8] A newspaperman, Lincoln Steffens, was the first student of contemporary politics to urge the necessity of looking beyond middle-class ethics in order to observe the politician in his personal relations.

A few scholars such as Zink, Gosnell, Salter, and Charles E. Merriam have come to recognize the importance of personal relations in politics and have begun to sketch in the relations between men at various levels in the political organizations. It is certainly no more than a beginning of science to point out something which is the most elementary lesson learned by the politician.

If *organization* is the important thing that all politicians say it is, then it requires detailed and systematic study. We should want to take a particular organization and establish the relative positions of all its members within the hierarchy; we should want to observe the interactions of the members at the various levels so as to determine the functions of men at each level in the interactive system.

To my knowledge, only one study that fits these specifications has yet appeared: David Harold Kurtzman's *Methods of Controlling Votes in Philadelphia.*[9] The author has presented the results of an intensive study of the Vare machine. His work should not only serve as a guidepost to fu-

[7] *The Pattern of Politics* (New York: The Macmillan Co., 1940), p. 3.

[8] (New York: McClure, Phillips and Co., 1905.) The book was written by a newspaper man, William L. Riordon, from conversations with the politician.

[9] (Philadelphia: University of Pennsylvania Ph.D. Thesis, 1935). This volume was considered of so little import in political science circles that it was not even reviewed in the *Political Science Quarterly.*

ture studies of political organization; it also indicates why other political scientists have not been able to make similar studies. Even those scholars who are primarily concerned with politics have derived most of their material from newspaper accounts and official records, supplemented by the interviewing of politicians. In some cases, they apparently have established sufficiently friendly relations with certain politicians to be able to obtain fairly frank interviews from them. But more than that is required. The complexities of the organization can be understood only by one who is in a position to talk intimately with a number of men of various ranks *and*, at the same time, to observe their behavior through the course of political activity. It takes time to establish such a position and to gain such information. It took Kurtzman four years. Furthermore, it requires a skill in personal relations, a flexibility in adapting oneself to different sorts of people. This does not flourish in the academic realms of political science. It develops only through intensive field experience.

The approach here outlined can furnish the details of the operation of the political organization in systematic form, but one further question needs to be answered. What is the function of political organization? The political scientist assumes that the function of organization in politics is to provide "good government"; when this end is not achieved, the organization is not functioning properly. In terms of this scheme, it does not make any difference whether the government of a city is controlled by old stock Americans, Irishmen, Italians, or Jews. However, the location of control makes a great deal of difference to the old stock Americans, Irishmen, Italians, and Jews.

The political scientist, like other respectable middle-class people, looks to legitimate business and the professions to furnish the opportunities for advancement to talented individuals of recent immigrant stock. The immigrants and their children have faced tremendous handicaps in their attempts to make their way in these fields dominated by old stock Americans. In general, they have been successful in business only when they have been able to take over fields not fully exploited by the native group. In business and in the professions, they have had to rely heavily upon the patronage of their own groups. It is in politics and related activities (contracting, gambling rackets, etc.) that they have been able to capitalize most successfully upon the weight of their numbers and the strength of their organization. The political organization has furnished an important route to social mobility for individuals who, because of ethnic background and low class position, are blocked from advancement in the "respectable" channels.[10] Does any political scientist believe that the

[10] For an extended discussion of this point, see the author's *Street Corner Society* (Chicago: The University of Chicago Press, to be published in 1943): "Politics and the Social Structure."

Irish would hold the position that they do in our cities today save for the organizations build up by "corrupt" Irish politicians? If politics should be viewed not as a struggle between good and evil, but as a struggle among individuals and groups for power and prestige, then the political scientist would certainly attempt to identify those engaged in the struggle and to discover what is at stake—for them.

This argument can be summed up in a few words. Political scientists should take an interest in politics. They should leave ethics to the philosophers and concern themselves primarily with the description and analysis of political behavior. The political behavior should be interpreted in terms of the social structure. The political organization should be viewed as an interactive system of personal relations. In order to carry on studies that fit these specifications, political scientists must establish themselves as participant observers in the field of practical politics.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The Executive Council of the American Political Science Association has adopted preliminary plans for the Thirty-ninth Annual Meeting of the Association, to be held in Washington, D. C., on January 21–23, 1944. The meeting will be held in coöperation with the American Economic Association and the American Society for Public Administration, and arrangements are being made for nation-wide broadcasting of a considerable number of the sessions. Dr. Marshall E. Dimock, now chairman of the Association's Washington Committee, is in general charge of the political scientists' share of the program. The Office of Defense Transportation cannot approve the holding at any time of meetings which call for long-distance travel on the part of large numbers of individuals. Meetings of the larger regional groups and societies will be equally impossible. To meet this situation, a plan is being formulated under which local and metropolitan meetings will be arranged in various parts of the country, with programs which may be built in part around the radio broadcasts of the Washington sessions, but further expanded by committees on local arrangements. The Executive Council believes that such local and metropolitan meetings will have substantial value in themselves, in addition to allowing members of the Association unable to reach Washington to take part in an annual meeting both nationally and locally arranged.

On June 16, Albert Bushnell Hart, emeritus professor of government at Harvard University, and eighth president of the American Political Science Association, died at Cambridge, Massachusetts, at the age of eighty-eight. A memorial will appear in the next issue of the *Review*.

In July, Professor Charles E. Martin resumed his administrative and teaching duties at the University of Washington, and at the same time Professor Ellery C. Stowell, with whom he had exchanged, returned to the American University.

Professor Charles M. Kneier, of the University of Illinois, has been commissioned a major and given an assignment on the staff and faculty of the School for Military Government at Charlottesville, where he is teaching courses in public administration.

Dr. Esson Gale, who during the past year was acting James Orin Murfin professor of political science at the University of Michigan, has been appointed director of the International Center at the University. Dr. Gale will continue as professor of political science and will give courses on the Far East.

In New Jersey, the Joint Legislative Commission on State Personnel has appointed Professors William S. Carpenter and John F. Sly, of Princeton University, to direct a study of state employees with a view to a complete reclassification of positions and the establishment of a new compensation plan.

Professor William S. Carpenter, of Princeton University, has been appointed to the New Jersey State Commission on Post-War Economic Welfare, an agency charged with handling problems of post-war planning in the state.

Professor Harwood L. Childs, on leave from Princeton University, is serving with the overseas branch of OWI. Professor George A. Graham, also on leave, is with the Bureau of the Budget in Washington.

Mr. Ralph R. Temple, formerly with the management section of the Division of Budget Administration for the Army, is now a captain in the Division of Military Government.

At Rhode Island State College, Dr. Irwin M. Tobin has been promoted to an assistant professorship of history and political science. He is also director of the World Affairs Council of Rhode Island.

At Colgate University, Professor Albert H. Garretson has been granted leave for work with the (former) Board of Economic Warfare, with assignment in London.

Dr. Eric Beecroft, recently chief of the Eastern Hemisphere Export Division of the Board of Economic Warfare, has gone to New Delhi to take charge of the Board's work on United States supply to India.

Dr. Fred W. Powell, long associated with the Brookings Institution for Government Research, and for a time acting director following Dr. W. F. Willoughby's retirement, died on June 12 in Washington. He was the author of a number of books in the field of public administration and had participated in many surveys of state governments.

Professor Earl G. Latham, of the University of Minnesota, formerly in the War Records Section of the Bureau of the Budget, has been made assistant chief of the Bureau's recently created Field Service Division.

Dr. Natalye Colfelt Hall was acting associate professor of economics at Humboldt State College, Arcata, California, during the second semester of the past academic year.

At Coe College, Dr. Dell G. Hitchner has been promoted from instructor to assistant professor.

Dr. Edward Mead Earle, of the Institute for Advanced Study, at Princeton, has been serving as a special consultant at the Headquarters of the Army Air Forces. He has been a member of a special committee charged with making certain studies for General Arnold.

Dr. E. Foster Dowell, formerly instructor at the State Teachers College of Maryland, has been appointed assistant professor of political science at Wellesley College.

At Lehigh University, Professor Wilson L. Godshall is teaching "World Affairs" in the Army's Foreign Area-Language Study course.

Dr. Joseph E. McLean, secretary of the Committee on Public Administration of the Social Science Research Council, in Washington, D. C., has been commissioned an ensign in the Naval Reserve and has reported for duty. In his absence, Professor E. Pendleton Herring will have charge of the Washington office and will be assisted by Mrs. Luella Gettys Key.

Dr. Brewer G. Whitmore, professor of government at Smith College, died at Northampton, Mass., on July 22 at the age of fifty-seven. He had been a member of the common council of Northampton since 1941.

Dr. Albert L. Turner, who received his doctorate at the University of Michigan in May, has been appointed dean of the undergraduate school of the North Carolina College for Negroes. This is in addition to his position as professor of law.

Dr. Andrew Gyorgy, formerly lecturer in political science at the University of California at Los Angeles, has been appointed to the staff of the geography department at the University of California, Berkeley.

Professor John R. Mashek, of Iowa State College, is teaching in the summer session of the University of Tennessee.

Dr. Alvin W. Johnson, who has been serving as head of the department of history and political science and dean of the college at Pacific Union College, Angwin, California, has been called to the presidency of Emmanuel Missionary College in Berrien Springs, Michigan.

Professor W. Hardy Wickwar, who for some years has taught at Rockford College, has been appointed associate professor of government at Connecticut College.

Professor Harvey Pinney, on leave from New York University, is serving as acting director of the Organization Planning Division of OPA.

Dr. Fernando de los Rios, of the Graduate Faculty of Political and Social Science, New York City, went in June to the University of Puerto Rico for a series of lectures.

Dr. Benjamin Draper, of the University of Chicago, is serving as chief economist of the OPA in Hawaii.

Dr. Edvard Hambro, until recently secretary-general and editor of the World League of Norsemen, has been appointed First Secretary of the Political Section of the Norwegian Foreign Office in London.

Dr. John Perkins, instructor at the University of Michigan, has been appointed assistant professor at the University of Rochester and took up his duties at that institution the first of July.

Dr. Thomas H. Reed has joined the staff of the Connecticut Public Expenditure Council in the capacity of municipal government counselor. Mrs. Reed is also with the Council as a researcher and analyst.

At the University of Alabama, Dr. Joseph M. Ray, formerly associate professor at the North Texas State Teachers College, has been appointed associate professor and assistant director of the Bureau of Public Administration; and Dr. Walter H. Bennett has been promoted to the rank of assistant professor.

Professor Amry Vandenbosch, of the University of Kentucky, who has been on leave since January serving with the Division of Political Studies of the Department of State, has been granted an extension of leave to continue his work. Professor J. E. Reeves, who served as acting head of the department at Kentucky during the last two quarters of the past year, has been granted leave and has accepted a position with the Legislative Analysis Section of the Bureau of Agricultural Economics of the Department of Agriculture.

Grants-in-aid have been awarded by the Social Science Research Council to Professor John Brown Mason, of Fresno State College, and to Dr. Walter H. Bennett, of the University of Alabama, for the completion of studies of the Free City of Danzig during the period 1919–39 and American theories of federalism, respectively.

Lieutenant D. Barlow Burke, formerly of the University of Pennsylvania and assistant professor of government and law in Drexel Institute of Technology, is now legal officer at the U. S. Naval Receiving Station in Brooklyn, N. Y. Previous to this assignment, he served as a representative of the Navy Department on the Interdepartmental Visa Review Committee in Washington.

Dr. Kurt Wilk, who during the past two years has taught at Brooklyn, Queens, and Hunter Colleges, has been inducted into the U. S. Army.

Approximately eleven thousand books, pamphlets, and articles by Theodore Roosevelt or relating to him and his times, and formerly kept at Theodore Roosevelt House, New York City, have been presented to the Harvard College Library by the Roosevelt Memorial Association. The collection will be kept intact in the American history section of the Widener Library stacks.

During the month of July, and in connection with the six- and fifteen-week summer sessions, an Institute of International Affairs was held at the University of Wisconsin. Special lecturers and round-table leaders included Dr. Hu Shih, Count Carlo Sforza, Hon. C. J. Hambro, Professor Horace M. Kallen, of the New School for Social Research, and Dr. Eduard C. Lindeman, of the New York School for Social Work.

Professor B. Mirkine-Guetzévitch, a French scholar well known in the fields of constitutional law and comparative institutions, and author of numerous books translated into various languages, has been residing in New York City during the past two years. He is now a visiting professor in the Graduate Faculty of the New School for Social Research, and was one of the founders of the French University in New York (École Libre des Hautes Études), in which he is vice-president, vice-dean of the Faculty of Law and Political Science, and director of the Institute of Comparative Law.

Dr. Spencer D. Albright, on leave from the University of Washington, has accepted a commission as second lieutenant in the air corps. After a short period of training in the Officer Training School at Miami Beach, he has been assigned as an instructor in the maps and charts department of the Bombardier-Navigator School, Santa Ana Army Air Base. His residence is at Balboa Island, California.

Dr. Nicholas J. Spykman, Sterling professor of international relations at Yale University and organizer and first director of the Yale Institute of International Studies, died on June 26 at New Haven after a long illness. His age was forty-nine. Dr. Spykman, a native of The Netherlands, received his doctorate at the University of California in 1923, and served at that institution as an instructor in political science and sociology until 1925, when he joined the Yale faculty. Under his direction, the Yale Institute of International Relations engaged in a long-term research program designed to test the limits and possibilities of research as an aid in the formulation of foreign policy, and when stricken by his fatal illness he was occupied with a comprehensive study of the position of the United States in the world and the factors involved in planning postwar policy. His *America's Strategy in World Politics*, published last year, attracted wide

attention and is in its second printing. He was a skilful and inspiring teacher, and he exercised a profound influence on the study of international relations in the United States.

Dr. James Brown Scott, who, until his retirement in 1940, was secretary of the Carnegie Endowment for International Peace and director of the Endowment's Division of International Law, died on June 25 at Wardour, Maryland, at the age of seventy-seven. Canadian born, Dr. Scott carried on his earlier studies at Harvard, Berlin, Heidelberg, and Paris, and in 1906—in spite of his youth, and by selection of Secretary of State Elihu Root—became solicitor to the State Department. He was the author of numerous books, a special adviser to the State Department during the first World War, a technical delegate to the Paris Peace Conference in 1919, and a technical adviser to the Washington Conference in 1921–22. From 1915 until his retirement, he was president of the American Institute of International Law; for four years, president of the Institute of International Law; for many years, president of the American Society of International Law; and for seventeen years, the editor-in-chief of the *American Journal of International Law*. At various times, he helped adjudicate differences between Belgium and Switzerland, Denmark and Brazil, and Poland and Brazil.

Professor Martin L. Faust, of the University of Missouri, is directing the preliminary research that is being undertaken under the auspices of a State-Wide Committee for the Revision of the Missouri Constitution. Under his editorship, the Committee has recently issued an *Organization Manual* for use by the forthcoming convention; and later studies will deal with the several subjects covered by the constitution. As mentioned in these pages previously, Professor William L. Bradshaw will be a delegate-at-large to the convention.

Between June 7 and July 2, Hofstra College (Hempstead, Long Island) conducted an Institute on Central and Eastern Europe, within the framework of a regular summer course, under the direction of Dr. Joseph S. Roucek, chairman of the department of political science and sociology, and in coöperation with the Central and Eastern European Planning Board, represented by Dr. Dragan Plamenac. Special lectures on the various aspects of the political, economic, social, and cultural developments of Czechoslovakia, Poland, Yugoslavia, and Greece, and particularly on present plans for the reconstruction of Central-Eastern Europe as related to postwar planning for the Western World, were delivered by well-known European and American specialists in this field.

Owing to transportation and other difficulties, the executive council of the Pennsylvania Political Science and Public Administration Association

decided to cancel the annual convention of the Association commonly held in Harrisburg late in April. The president, Charles C. Rohlfing, appointed a nominating committee composed of W. Brooke Graves (chairman), John G. Herndon, and Siebert Pancoast; and the ensuing election by mail resulted as follows: president, Elmer D. Graper (University of Pittsburgh); vice-president, Helen Dwight Reid (Bryn Mawr College); secretary-treasurer, R. Jean Brownlee (Third Region, U. S. Civil Service Commission); members of the executive council with terms ending in May, 1946, Charles C. Rohlfing (University of Pennsylvania) and William C. Beyer (Philadelphia Bureau of Municipal Research).

Early in 1942, a group of French scholars, arriving in the United States after the collapse of France, founded a French University in New York, under the name of École Libre des Hautes Études. The institution has a Faculty of Law and Political Science, whose dean is Mr. Paul van Zeeland, former prime minister of Belgium, and whose vice-dean is Professor B. Mirkine-Guetzévitch. There is also an Institute of Comparative Law, directed by Professor Mirkine-Guetzévitch, and with Mr. Ernest Hamburger as secretary-general. A great part of the work of this Institute is devoted to the study of political science and constitutional law, including a seminar dealing especially with South American constitutional problems. In addition, an Institute of Sociology, directed by Professor Georges Gurvitch, studies planned economy, production and labor problems during the war, and the place of primitive peoples in the post-war world. A series of lectures, organized by Professor Mirkine-Guetzévitch and dealing with the political achievements of the Third French Republic, will be published in book form during the coming winter.

The Inter-American Workshop, conducted at Highlands University (N. M.) from June 7 to July 16, under the sponsorship of the Coördinator of Inter-American Affairs, and under the directorship of Dr. Quincy Guy Burris, of Highlands University, was designed to elevate the general standards of the Spanish-speaking minority in New Mexico and to prepare it to serve as a bridge between the Americas, on the theory that New Mexico offers the most obvious approach to Mexican good-will and that it is necessary to work in close harmony with Mexico in order to overcome tensions created by the distressing situation of Spanish-American citizens and Spanish descendants in the United States. Among persons addressing the Workshop were Dr. Charles P. Loomis, senior social scientist of the U. S. Bureau of Agricultural Economics, Dr. Michel Pijoan of the Indian Nutrition Laboratory, and Dr. Joseph S. Roucek, of Hofstra College. During the autumn, the results of the sessions of the Workshop will be dramatized in thirty radio broadcasts in Spanish, prepared by Ramon Sender, a well-known Spanish novelist, for the Work-

shop's students, who are to organize listening and discussion groups in their communities.

The Organizations Service Division of the Office of Civilian Defense has been abolished as of July 15, and with it the entire federal program of servicing face-to-face war information activities. Set up as a central point of contact between national organization and defense councils on the one hand, and federal agencies on the other, the Organizations Service Division had the special function of helping to organize and then servicing discussion groups, war information centers, speakers bureaus, forums, town meetings, etc. The Division worked in closest coöperation with the Office of War Information, which produced materials, including posters, pamphlets, discussion outlines, 16 mm. motion pictures, etc., of use to programs of this kind. Simultaneously with the abolition of the Division by James M. Landis, director of the OCD, Congress denied further funds for adult education services to OWI and forbade the production of pamphlets and certain other materials for domestic distribution. Professor Walter H. C. Laves, who had previously been director of a similar program for the Coördinator of Inter-American Affairs, was chief of the Organizations Service Division. Associated with him were a number of political scientists, including Louis T. Olom, Garland C. Routt, Kenneth P. Vinsel, Francis O. Wilcox, and Shepherd L. Witman.

A meeting of the Central Committee of the Universities Committee on Postwar International Problems, under the chairmanship of Professor Ralph Barton Perry, of Harvard University, was held at the Princeton Inn, Princeton, New Jersey, on June 19 and 20. A full report was made on activities to date, and plans for the future were discussed. Problem analyses on the following subjects have thus far been prepared and distributed to the coöperating college and university groups: I, "Should the governments of the United Nations at this time formulate and announce a 'common strategy of peace'?"; II, "By what method and through what stages should the final peace settlement be reached?"; III, "Treatment of enemy countries—Germany"; IV (2 parts), "Should there be an international organization for general security against military aggression, and should the United States participate in such an organization?"; V, "Relief and rehabilitation"; and VI, "Basic policies of international economic collaboration." About seventy of the coöperating college and university faculty groups have thus far sent in replies arising from their discussions of one or more of these problems. On the basis of replies received, summaries of the conclusions reached have been prepared and made public for Problems I and II. On July 17 and 18, a regional conference of representatives from actively coöperating groups in the North Atlantic area was held at Yale University, with "American Policy toward a Defeated Germany" as the subject for discussion.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN UNIVERSITIES[1]

COMPILED BY DAVID FELLMAN[2]
University of Wisconsin

POLITICAL PHILOSOPHY AND PSYCHOLOGY

William M. Barr; Litt.B., Rutgers, 1928; A.M., Columbia, 1936. The Philosophy of Woodrow Wilson. *Columbia.*

Donald Dwight Braden; A.B., Kentucky, 1932; A.M., *ibid.*, 1933. The Concept of Equality in American Political Thought, 1865–1900. *Southern California.*

Aldemar Hora Dantas de Brito; B. in Jur. and Soc. Sc., Bahia (Brazil), 1935. La Philosophie du Droit des Gens: Essai de Critéreologie Juridique. *Catholic University.*

Richard Eugene Curl; A.B., Ohio State, 1939; A.M., *ibid.*, 1940. The Impact of War on Government Publicity. *Princeton.*

Jack G. Day; B.S., Ohio State; LL.B., *ibid.*, A.M., *ibid.* The Influence of Roscoe Pound on American Jurisprudence. *Ohio State.*

[1] Similar lists have been printed in the REVIEW as follows: V, 456 (1911); VI, 464 (1912); VII, 689 (1913); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922); XIX, 171 (1925); XX, 660 (1926); XXI, 645 (1927); XXII, 736 (1928); XXIII, 795 (1929); XXIV, 799 (1930); XXV, 798 (1931); XXVI, 769 (1932); XXVII, 680 (1933); XXVIII, 766 (1934); XXIX, 713 (1935); XXX, 811 (1936); XXXI, 772 (1937); XXXII, 796 (1938); XXXIII, 732 (1939); XXXIV, 767 (1940); XXXV, 752 (1941); XXXVI, 734 (1942).

Items which appeared in the August, 1942, list are in general classified under the same headings in the present list, and new items have been assimilated to the 1942 classification as far as possible. In cases where classification of an item has been suggested by the institution concerned, the suggestion has been followed. It is believed that each item is listed under one classification only. Names starred are merely carried over from the 1942 list, no more recent data having been received.

The lists printed in the REVIEW are based on information from departments giving graduate instruction in political science. Often dissertations are in progress in departments of economics, history, sociology, etc., which overlap or supplement dissertations in preparation in political science. Attention is called especially to the following lists: "Check List of Current Researches in Public Administration Reported to the Committee on Public Administration, Social Science Research Council" (mimeographed, most recent edition, January, 1943); "Doctoral Dissertations in Political Economy in Progress in American Colleges and Universities," in the *American Economic Review;* "List of Doctoral Dissertations in History Now in Progress," formerly published by the Division of Historical Research, Carnegie Institution of Washington, but since the 1938 issue as a Supplement to the *American Historical Review;* and "Higher Degrees in Sociology," in the *American Journal of Sociology.* Usually one list is published each year. These are in addition to the "List of American Doctoral Dissertations Printed in 1938," the most recent of an annual series published by the Library of Congress; and Edward A. Henry's "Doctoral Dissertations Accepted by American Universities, 1941–1942," the ninth of a series beginning in 1933–34, compiled for the Association of Research Libraries.

[2] With the assistance of Miss Erna Flader, hereby gratefully acknowledged.

Karl Wolfgang Deutsch; Dr. of Law and Political Science, Prague, 1938. The Economic Factor in Nationalism: A Technique of Enquiry Applied to Some Successors of Central Europe. *Harvard.*

Emmet E. Dorsey; A.B., Oberlin, 1927; A.M., Columbia, 1932. A Critique of Negro Political Leadership: A Series of Social Biographies. *Columbia.*

Harold L. Elstien; A.B., Syracuse, 1934. Democratic Tolerance of Anti-Democratic Organization. *Chicago.*

Gisbert Henry Flanz; Free School of Political Science, Prague, 1936; Dipl. Sc. Pol., *ibid.*, 1939. The Doctrine of the Separation of Powers; An Historical and Analytical Study in Political Theory and Comparative Constitutional Law. *Princeton.*

Stephen S. Goodspeed; A.B., California, 1936. The Attitudes of Special Interest Groups toward Germany, 1933–1939; A Study in Public Opinion. *California.*

Helen V. Hammarberg; A.B., California, 1936; A.M., Columbia, 1938. The Theory of an American Legal and Political System. *California.*

Carroll Hawkins; A.B., West Virginia, 1934; A.M., Minnesota, 1937. The Political Thought of Harold J. Laski. *Minnesota.*

Martin Joseph Hillenbrand; A.B., Dayton, 1937; A.M., Columbia, 1938. An Analysis of the Concept of Obligation. *Columbia.*

Byron Marshall Holmes; A.B., U.C.L.A., 1934; A.M., California, 1939. Political Nativism. *Southern California.*

Edgar Kemler; A.B., Johns Hopkins, 1936. The Deflation of American Ideals: A Study of the Response of Traditional Progressivism to the Conditions of the Fascist Era. *Harvard.*

Mary Helena Kirsten; A.B., Wisconsin, 1935. The Political Columnists. *Chicago.*

Eugene E. Koch; A.B., Pittsburgh, 1932; A.M., *ibid.*, 1935. Political Philosophy of John Selden. *Pittsburgh.*

Bernard Kronick; A.B., California, 1937. Recent American Conservative Thought, 1920–1942. *California.*

Thomas B. Larson; A.B., Nebraska, 1937; A.M., Chicago, 1938. A History of Ideas concerning Legislatures and Representation. *Columbia.*

Luther J. Lee, Jr.; A.B., Pomona, 1933. Political Significance of Reconstruction for American Nationalism after the Civil War; A Study in American Political Thought. *California.*

Lena London; A.B., Hunter College, 1941. Sources of Ideas of Western State Constitutions, 1830–1860. *Clark.*

Rev. Thomas Francis Maher; A.B., St. Joseph's Seminary, Yonkers, 1936; A.M., Notre Dame, 1942. Population and Politics: The Political Aspects of Birth Control. *Notre Dame.*

Robert Earl Martin; A.B., Howard University, 1936; A.M., Harvard, 1938. Farm Marketing Quota Referenda. *Chicago.*

Herbert McClosky; A.B., University of Newark, 1940. The Will of the Minority. *Minnesota.*

Milton R. Merrill; B.S., Utah State College, 1925; A.M., Columbia, 1932. The Public Career of Reed Smoot. *Columbia.*

Charles R. Nixon; A.B., Oberlin, 1939. The Concept of Civil Liberty: Its Meaning and Development in the United States. *Cornell.*

Louis T. Olom; A.B., Chicago, 1937. The Study of Political Leadership. *Chicago.*

William Broderick Pendergast; A.B., Notre Dame, 1937; A.M., *ibid.*, 1938; Ière Licence en Sciences Politiques et Sociales, Louvain (Belgium), 1939. American Ideas on the Limits of the Authority of Government. *Chicago.*

Claude Henry Richards, Jr.; A.B., Texas Christian, 1938; A.M., Duke, 1940. Jehovah's Witnesses; A Study in Religious Freedom. *Duke.*

Willis Harlow Shapley; A.B., Chicago, 1938. General Theory of Planning. *Chicago.*

Charles Louis Smith; B.S., George Peabody College, 1927; A.M., Vanderbilt, 1930. Civil Military Relations. *Chicago.*

David Spitz; B.S.S., C. C. N. Y., 1937; A.M., Columbia, 1939. Ideas in Transition; A Comparative Study of the Impact of Totalitarianism and War upon a Selected Group of Political Thinkers. *Columbia.*

James Benjamin Stalvey; A.B., Duke, 1930; A.M., *ibid.*, 1931. The Political Philosophy of Daniel DeLeon: A Study in Early American Socialism. *Illinois.*

Robert L. Stern; A.B., New York State College for Teachers, 1935. Study of Predictions of Newspaper Columnists in the Newspapers of 1934. *Syracuse.*

Harry C. Thomson; A.B., Allegheny, 1933; A.M., Harvard, 1934. Federalism in American Political Thought. *Harvard.*

M. Henry Wells; A.B., Illinois, 1937; A.M., Louisiana State, 1939. Recent American Critics of Democracy. *Yale.*

John Higgins Williams; A.B., Washington and Lee, 1924; A.M., *ibid.*, 1928. The Rise and Decline of the Compact Theory in the United States. *North Carolina.*

GOVERNMENT AND POLITICS OF THE UNITED STATES AND ITS DEPENDENCIES

Totton James Anderson; A.B., California, 1930; A.M., *ibid.*, 1931. The Presidential Speech as an Instrument of Foreign Policy. *Southern California.*

Benjamin Baker; B.S., C. C. N. Y., 1935; A.M., Columbia, 1940. The Packers and Stockyards Act. *Columbia.*

Hillman M. Bishop; A.B., Columbia, 1926. Rhode Island and the Federal Constitution. *Columbia.*

Helen R. Brooks; A.B., Radcliffe, 1934; Ed.M., Harvard, 1936. The Apportionment Rule of the United States Civil Service. *Radcliffe.*

Judah Cahn; B.S, N. Y. U.; A.M., Columbia, 1942. The Judicial Struggle, 1937. *Columbia.*

William D. Carey; A.B., Columbia, 1940; A.M., *ibid.*, 1941. A Study in War-time Federalism. *Columbia.*

Lawrence H. Chamberlain; B.S., Idaho, 1930; A.M., *ibid.*, 1932. Sources of Recent Major Legislation. *Columbia.*

Asher N. Christensen; A.B., Minnesota, 1924. A Study of the Legislative Settlement of Contested Election Cases. *Minnesota.*

Robert Lewis Clark; A.B., Lincoln, 1937; A.M., Illinois, 1938. An Examination of Congressional Draft Legislation, with Special Reference to the 1940 Selective Service Act. *Illinois.*

David Gregg Farrelly; B.S., Springfield College, 1937; A.M., Pittsburgh, 1940. The Senate Judiciary Committee. *Princeton.*

LeRoy Craig Ferguson; A.B., Miami, 1937; A.M., Ohio State, 1939. The Quakers in American Politics. *Ohio State.*

Thomas J. Graves; A.B., University of Newark, 1937; A.M., University of New York, 1939. Federal-State Coöperation in World War II. *Princeton.*

Morton M. Grodzins; A.B., Louisville, 1940; A.M., *ibid.*, 1941. Japanese Evacuation on the West Coast; A Study of Pressure Group Activity, Intergovernmental Organization, and Constitutional Problems. *California.*

John D. Hall; A.B., Union, 1936; A.M., Syracuse, 1938. The Administration of U. S. Territories and Island Possessions. *Syracuse.*

Rufus G. Hall, Jr.; A.B., Texas, 1933; A.M., *ibid.*, 1935. American Imperialism in the Caribbean during the Taft-Knox Administration. *Harvard.*

Earl T. Hanson; Ed.B., Southern Illinois State Teachers College, 1933; A.M., Illinois, 1937. Special Groups in Congress. *Illinois.*

Wiley Edward Hodges; B.S., Roanoke, 1926; A.M., Duke, 1930. The Trend of Laissez-faire in Virginia from the Colonial Period to 1832. *Duke.*

Howard K. Hyde; A.B., Fletcher, 1934; A.M., Chicago, 1935. The American Telephone and Telegraph Company; A Study in Large-Scale Organization. *Chicago.*

Frederick C. Irion; B.J., Missouri, 1939; A.B., *ibid.*, 1940; A.M., Wisconsin, 1941. The Effect of Federal Government and Newspaper Labor Union Action on the Newspaper Industry: 1928–1942. *Syracuse.*

Merle Kling; A.B., Washington, 1940; A.M., *ibid.*, 1941. Missouri's Attitude on Foreign Policies as Expressed by her Congressmen. *Washington (St. Louis).*

Jerome Machlin; B.S.S., C. C. N. Y., 1935. A Study in Protest Politics. *Syracuse.*

Edwin M. Martin; A.B., Northwestern, 1929. Influence of Organized Economic Groups on Federal Tax and Tariff Legislation from 1921 to 1933. *Northwestern.*

F. Graham Matheson; B.S., Princeton, 1939; A.M., Pennsylvania, 1938. Political Geography of Puerto Rico. *Clark.*

Willard C. Matthias; A.B., Iowa, 1936; A.M., Minnesota, 1938. The Formation of Labor Policy under the New Deal. *Harvard.*

James Erroll Miller; A.B., Pittsburgh, 1931; A.M., Pennsylvania, 1932. The Negro in Pennsylvania Politics, with Special Reference to Philadelphia since 1932. *Pennsylvania.*

Walden Moore; A.B., Harvard, 1922. The American Navy Bill of 1916. *Columbia.*

Bro. August Raymond Ogden, F. S. C.; A.B., Manhattan, 1935; A.M., St. Mary's University (San Antonio, Tex.), 1939. The Dies Committee; A Study of the Special House Committee to Investigate Un-American Activities, 1938–1943. *Catholic University.*

**Charles G. Padelford;* A.B., Washington, 1937. The Political Problem of the Americans of Japanese Descent. *Washington (Seattle).*

Wallace J. Parks; A.B., Williams, 1932; LL.B., George Washington, 1937. Federal Import Control. *Columbia.*

A. Edward Patmos; A.B., N. Y. U., 1935; A.M., *ibid.*, 1936. Some Recent Attempts of Non-Political Organizations to Influence Federal Legislation. *New York University.*

William Schuhle, Jr.; A.B., Washington and Lee, 1935; A.M., 1936. Social Security as a Responsibility of Government. *Johns Hopkins.*

Ralph Scott; A.B., Williams, 1923; LL.B., Howard, 1926; A.M., Catholic University, 1939. Groups Representing Negro Interests in the National Field. *Catholic University.*

Albert G. Selke; Ph.B., North Dakota; A.M., *ibid.*, 1940. Special Elections for Members of the House of Representatives, 1920–1940. *Michigan.*

L. William Steck; A.B., Otterbein, 1937; A.M., Ohio State, 1938. The Formation of the Jeffersonian Republican Party. *Ohio State.*

Liba Harold Studley; B.S., C. C. N. Y., 1921; LL.B., Fordham, 1925; A.M., Columbia, 1929. Progress of Aviation Legislation in the United States. *Columbia.*

Norman Wengert; A.B., Wisconsin, 1938; A.M., Fletcher, 1939. The Trucking Industry and Public Policy. *Wisconsin.*

CONSTITUTIONAL AND ADMINISTRATIVE LAW IN THE UNITED STATES

Ernest F. Acheson; A.B., Washington and Jefferson, 1934; A.M., *ibid.*, 1935. The National Labor Relations Act: A Study in Law and Administration. *Johns Hopkins.*

Paul Beckett; A.B., Monmouth College, 1935; A.M., Illinois, 1938. Judicial Review of Legislative Acts in California since 1879. *U. C. L. A.*

Ross C. Beiler; A.B., Allegheny College, 1937; A.M., Iowa, 1940. The Commerce Clause and State Regulation, 1888–1910. *Iowa.*

Harold Christensen; A.B., Iowa, 1939; A.M., *ibid.*, 1940. The Concept of Liberty as Enunciated by the Supreme Court from 1937–1942. *Iowa.*

Robert Burns Dishman; A.B., Missouri, 1939; A.M., *ibid.*, 1940. American Legal Commentators and the Constitution. *Princeton.*

Richard H. Ernst; A.B., Minnesota, 1933; A.M., Princeton, 1935; LL.B., Yale, 1938. The Administrative Adjudicative Technique as Used by the National Labor Relations Board. *Princeton.*

Delavan P. Evans; A.B., Occidental, 1933. The Use of the Concept of Inherent Powers by the Supreme Court of the United States. *California.*

Spencer R. Gervin; B.S., State Teachers College, Johnson City, Tennessee, 1936; A.M., Duke, 1941. The Concept of Full Faith and Credit for Divorce. *Duke.*

J. Clare Heinlein; A.B., Grinnell, 1934; LL.B., Kansas City School of Law, 1938. The Institution of the Administrative Court. *Chicago.*

**Francis H. Heller;* J.U.C., Vienna; LL.B., Virginia, 1941. The Supreme Court and Treaties. *Virginia.*

Samuel Hendel; LL.B., Brooklyn Law School, 1930; B.S.S., C. C. N. Y., 1936. Constitutional Doctrine of Charles Evans Hughes. *Columbia.*

Robert Baker Highsaw; A.B., Princeton, 1939; A.M., Harvard, 1942. Mr. Justice White: A Judicial Biography. *Harvard.*

Huey Blair Howerton; B.S., Mississippi A. and M., 1916; A.M., Mississippi, 1925; A.M., Texas, 1934. Mississippi Unconstitutional Legislation, 1817–1942. *Texas.*

Paul R. Jolles; Baccalaureat, Gymnasium of Berne, 1938; Certificat d'Études Francaises, Lausanne, 1939; A.M., Harvard, 1943. The Limits of Political Opposition in the Theory of Civil Liberties. *Harvard.*

Louis W. Koenig; A.B., Bard, 1938; A.M., Columbia, 1940. Emergency Powers of the President. *Columbia.*

Samuel J. Konefsky; A.B., Brooklyn, 1937; A.M., Columbia, 1938. Mr. Justice Stone and the Theory of Judicial Review. *Columbia.*

William L. LaRue; A.B., Northwestern, 1933. Patents and Copyrights in American Public Law. *Princeton.*

George Lipsky; A.B., Washington (Seattle), 1938. Constitutional Powers of States Affecting Interstate Commerce. *California.*

Rebecca Matthews McBride; A.B., Maine, 1930; A.M., American, 1932. Influence of the Supreme Court on State Legislation. *American.*

Vera McLaren; A.B., Southern California, 1924; A.M., Northwestern, 1929. The Doctrine of Public Interest. *Northwestern.*

John Marshall Martin, Jr.; A.B., Tennessee, 1939. The United States Court of Customs and Patent Appeals. *Johns Hopkins.*

Roy Miller; A.B., Hamline, 1927; A.M., Minnesota, 1928. Municipal Civil Service Law in Minnesota. *Minnesota.*

Frederic D. Ogden; A.B., Tusculum, 1938. Governmental Regulation of Foods, Drugs, and Cosmetics. *Johns Hopkins.*

Owen Scott Stratton; A.B., Reed, 1938. State Taxation and the Commerce Clause. *Stanford.*

Harry O. Wilson; A.B., Harvard, 1931; A.M., *ibid.*, 1932. The Trial Examiner in the National Labor Relations Board; A Study of Quasi-Judicial Development in an Administrative Body. *Northwestern.*

AMERICAN STATE AND LOCAL GOVERNMENT AND POLITICS

Bernard L. Barnard; A.B., Kansas, 1928; A.M., *ibid.*, 1932. Bicameralism in Kansas. *American.*

F. J. Barnes, II; A.B., William and Mary, 1927; A.M., *ibid.*, 1927. The City in Virginia. *North Carolina.*

Harald Bergerson; A.B., Puget Sound, 1931. Public Employee Relations in Seattle. *Chicago.*

Walter Thompson Bogart; A.B., U. C. L. A., 1930; A.M., Stanford, 1931. Glebes as a Factor in the Public Revenue of Vermont. *Stanford.*

Eugene C. Brownson; A.B., Washington, 1938; A.M., *ibid.*, 1940. The Administration of County Functions in the City of St. Louis. *Washington (St. Louis).*

Frederick William Dumschott; A.B., Washington College, 1927; A.M., Virginia, 1931. State Administrative Control of Cities in Maryland. *American.*

J. Kirk Eads; A.B., Columbia, 1936; A.M., *ibid.*, 1937. Theory and Practice of State Control over the Local Unit. *Indiana.*

Samuel J. Eldersveld; A.B., Calvin College, 1938; A.M., Michigan, 1939. A Study of Urban Electoral Trends in the State of Michigan, 1930–1940. *Michigan.*

Emery Fast; A.B., Colorado, 1927; A.M., *ibid.*, 1929. A History of the California Criminal Syndicalism Law. *Stanford.*

Robert L. Fisher; A.B., Stanford, 1931; A.M., *ibid.*, 1933. The American Labor Party of New York State, 1936–1942. *Columbia.*

Mona Fletcher; B.S., in Ed., Kent State University, 1921; A.M., Chicago, 1924. Bicameralism in Ohio. *Ohio State.*

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BOOK REVIEWS AND NOTICES

Social Causation. By R. M. MacIver. (Boston: Ginn and Company. 1942. Pp. 414. $3.50.)

The three outstanding features of this volume are a discussion of the nature of causality, a critique of the methodology of social science, and constructive suggestions for improvement in method and in modes of interpretation.

In dealing with "the concept of causation in human experience," the learned professor is operating in the stratosphere, and he generously intimates in the introduction that readers may wish to omit this part of the discussion. Well equipped with the oxygen of Scottish and other metaphysics, Professor MacIver easily rises from the ground, attains altitude, moves swiftly onward, but experiences some difficulty in landing on the field of social science. The essence of causation is a tough problem, as are its meaning, interpretation, application. What is the causality of causation? That Professor MacIver is sophisticated and subtle in this area, I do not doubt. But whether he has made a special contribution to the higher causality or to the application of the higher causality to social science is not so clear. For myself, I am indebted to Professor MacIver for a delightful airy hour, but must admit that before I reached the "crux of totality," I weakly went overboard with my trusty parachute.

In dealing with the mistakes of social science, the author slaughters the weaklings with right good will and skill. Some students of criminology are especially singled out for identification and punishment. Many ears would burn except that the learned professor has detached their heads from their slothful and clumsy bodies too quickly. They cannot blush, but merely bleed, admitting perhaps that "this effect defective comes by cause." These delinquents are condemned in general for unfaithfulness to the inexorable "crux of totality," but often for far simpler misdemeanors such as inaccurate observation, lack of insight into relationships, or over-emphasis upon one factor in a series of elements. Thus the quantifiers are not punished *qua* quantifiers, but for failure to relate and interpret their quantifications expertly. Their cause may be good even if their causality is bad. It is in this section of his learned volume that Professor MacIver is at his best, and doubtless his pages will be carefully scanned by some of the savants in the redoubtable SSRC, always on the lookout for laggards.

In the constructive sections of his study, it seems to me that the author is less successful, or perhaps more accurately, relatively less successful. I can follow, though with faltering step, his distinction between the physical realm, the realm of organic being (all non-physical?), and the realm of conscious being. But I have far more difficulty with the subdivisions of the last realm, that of conscious being, into (1) the cultural order, (2) the

technological order, (3) the social order (discussed in earlier works of the author). Nor can I follow clearly the lines between "distributive phenomena," "collective phenomena," and "conjunctural phenomena."

The text of MacIver moves trippingly along, but I do not relate what he observes to his classifications. For example, the "philosophies" placed in the cultural order, the "everchanging apparatus of civilization" in the technological order, and "group formations" placed in the social order. This, I confess, is not helpful to me, but perhaps a little confusing. Nor do I see clearly the difference between "collective phenomena" and "conjunctural phenomena."

Professor MacIver's "dynamic assessment" is an ingenious effort to escape "a common frame of reference for physical and social causation" (p. 299). The dynamic assessment enables him to draw in other than physical phenomena and values. First he challenges all values in a purely static world, and then he dissociates them from physical phenomena. I find the cases discussed by MacIver interesting and valuable, but again I do not relate them closely to his formula of description. I find his concluding pages especially cogent and helpful, but by that time I have forgotten his categories in his impressive erudition and common sense.

This is a very scholarly, useful, and challenging book, to be read not as a final utterance from on high, but as memoranda upon a struggle for greater certainty in a realm where precision is difficult to achieve. But for that reason it is all the more important to approximate truth with such precision tools as we have, such insight as we possess, and with such mustering of all available aids as we may command. The long history of intelligence and science displays like struggles all along the human way. By these efforts we move forward to a fuller understanding of ourselves and the world in which we live. Professor MacIver is not dogmatic or intolerant; he is indeed diffident, even apologetic. Under his urbane and persuasive management, "causality" and the "crux of totality" become more human, even if not fully socialized.

CHARLES E. MERRIAM.

University of Chicago.

Reflections on Government. BY ERNEST BARKER. (London and New York: Oxford University Press. 1942. Pp. xvi, 424. $6.00.)

These are chiefly reflections on democracy—its distinctive objectives, methods, "difficulties," some proposed "amendments," and the newer "alternatives to democracy." Professor Barker considers government as a means of achieving liberty and indicates that modern governments differ from one another, in structure and policy, according to differences in the posited claimants (nation or state, class or group, the individual) to liberty as well as according to differences in the sort of liberty sought for the vari-

ous claimants. Democracy assumes that the only real and proper ultimate claimant is the individual, who alone has ultimate intrinsic worth. A democratic political system secures liberty for individuals not merely or basically by giving them equal votes in choosing their governors, or by securing equal treatment for them in the distribution of goods. Democracy does not mean government in subordination to the "force" or in fulfilment of the "desires" of popular majorities. The machinery a democracy sets up provides for free exchanges of view for all in order that governmental decisions may be those to which minorities as well as majorities have contributed; and the liberty a democracy seeks is that "condition, or status, or quality, which individual personality must possess in order that it may translate itself from what it is to what it has the capacity of becoming."

Special groups, occupational and regional, play their indispensable parts in maintaining conditions for the realization of human capacities, and not even a democratic government should usurp the functions of these groups; but only the state, the democratic state, reconciles the overlapping interests of the various groups and provides for the complete, not the partial, development of individual capacities. The difficulties of a democracy, as Professor Barker discusses them, relate to such matters as the "terrific" numbers of people in most modern democracies (how can the masses be adequately informed so that they may participate capably in political decisions?), the complexity of the problems created by modern industrialism, the necessity of strong personal leadership, and the tendency of such leadership to become autocratic. The amendments relate chiefly to methods of legislative procedure, the operating relations between executive and legislative organs, and the ways of utilizing scientific techniques in governmental planning. The present-day alternatives to democracy are the single-party governments in Russia, Italy, and Germany.

There is little new in the author's critical analyses of either the democratic or totalitarian systems. But there are some incisively expressed discussions of familiar problems, such as his examination of the relations of democracy to socialism and to capitalism. He believes that it is difficult to be a democrat and a Marxist at the same time, since Marxism, contrary to democratic doctrine, maintains that class war is inevitable under "capitalism" and proposes autocratic class rule as a means of eliminating classes. Professor Barker has no objection to gradual transfers from private to public management of economic enterprises, provided the changes are decided upon on the basis of democratic criteria and carried out through democratic processes. Neither socialism nor capitalism, he believes, is either incompatible with or essential to democracy, and there is no reason why we should not stick to our present course of continually changing mixtures of private and public enterprise.

Here then are informed, clear, moderate, and leisurely reflections on present-day democracies and dictatorships. They do not give an over-all picture of either comparative government or political theory. They consider only governments in Europe, omit some of the important problems that these and other governments have had to face in recent years, and give slight attention to some of the practical consequences and ideological implications of the newer systems. The author says that between the time of the original draft of the work (prepared as lectures before the University of Wales, in 1933) and a final rewriting nine years later, his ideas were developed and extended by travel in Europe and by study of the march of events in Europe" ("the continent to which I belong!").

Despite his travels and observations, he could, I believe, have written his book, just as it is, in the University library at Cambridge, and without resort to its newspaper files. Books and documents in a university library, however, are not bad materials for a scholarly and thoughtful writer; and although these reflections are limited in scope, and seem, at times, needlessly abstract and schematic, they supply some illuminating historical and philosophical backgrounds, such as readers expect to find in a book by Professor Barker.

FRANCIS W. COKER.

Yale University.

The New Leviathan; Or Man, Society, Civilization, and Barbarism. By R. G. COLLINGWOOD. (Oxford: The Clarendon Press. 1942. Pp. viii, 387. $6.00.)

The Oxford philosopher and historian has sought in this book to "bring the *Leviathan* up to date, in the light of the advances made since it was written, in history, psychology, and anthropology" (p. iv). Admitting an overwhelming admiration for Hobbes's famous treatise, which he calls the "world's greatest store of political wisdom," he yet attempts to be critical and to correct, with the new, the errors of the old *Leviathan.*

The work is divided into four parts. In the first, on Man, the author is concerned with ever-recurring problems of human nature. He raises the body-mind issue, finally dismissing it as a "bogus" problem (p. 10); and the remainder of Part I is devoted to an examination of certain questions involved in the "sciences of mind," e.g., Language, Passion, Happiness, Desire, Utility, Right, and Duty.

Part II analyzes Society, finding its most characteristic element to be the possession of free will by the individual. The body politic is seen to be an example of a mixed community—one portion, the ruling class, being an approximation of Society; the other part, the ruled, constituting a "non-social" community, whose members, lacking free will, are governed for their own benefit, with the possibility that they may eventually join the ruling group.

The last two parts consider Civilization and Barbarism. The ideal of the former includes as a leading element abstention by individuals from the use of force. Barbarism, defined as "hostility towards civilization" (p. 342), Collingwood finds exemplified, above all, in four movements during the past 1,500 years—the Saracens, the "Albigensian Heresy," the Turks, and the growth of modern Germany.

Space available does not suffice to detail the ramifications into which this study leads. But any adequate review must note its uneven quality, and particularly the superiority of the first two parts as compared with the remaining chapters. Collingwood is at his best in discussing the theoretical interrelationship of Right, Utility, and Duty, rightly emphasizing the importance of all three conceptions in the evaluation of public and private actions. He falls far below his best in his examination of concrete problems in political ethics and in his reflections on Civilization and Barbarism.

To say, as he does (p. 204), that "neither the rule of a family over its own children nor the rule of a body politic over its own subjects can dispense with the use of deceit" is merely one example of the author's tendency, Hobbes-like, to seek security at the expense of other values. As for his attempt to fit the Saracens, Albigensians, Turks, and Germans into a category which will be peculiarly "barbaric," one might ask the author to compare the "barbaric" qualities of Innocent III with those of his Manichean opponents. Such an inquiry might well constitute a first step in the removal of the ambiguities, outright distortions, and over-simplifications which at several points make this book by a philosopher so unphilosophical.

MULFORD Q. SIBLEY.

University of Illinois.

The Machiavellians: Defenders of Freedom. BY JAMES BURNHAM. (New York: The John Day Company, Inc. 1943. Pp. viii, 270. $2.50.)

Machiavellian thought is clearly more ancient than the man who gave it a name, and it survives to each succeeding period. Our own time has been marked by a larger number of Machiavellian thinkers than is, perhaps, appropriate. Professor Burnham is certainly a candidate for recognition as the contemporary American Machiavelli. Many, naturally, are inclined to concede the honor to anyone who demands it, but we must recognize that the volume under review raises essential questions in political thinking. Those who would not be Machiavellian must, like their eternal opponents, affirm for each period the grounds of their belief. And, like so many basis arguments, neither side will accept the statement of the issue offered by the other.

Professor Burnham says that he wants to be scientific; he wants to describe the laws of contemporary politics just as was done by the great

Florentine. The only way to be free, he believes, is to recognize the scientifically ascertained conditions under which freedom—the right of political opposition (p. 244)—has been realized. Through page 220, the volume is really an enthusiastic summary of the ideas of Machiavelli, Mosca, Sorel, Michels, and Pareto, with some disparaging side glances at Dante. One is puzzled by the failure of the author to discuss Machiavellian thinkers in the sixteenth, seventeenth, and eighteenth centuries, as well as his failure to emphasize the differences which exist in the thinking of the recent moderns who are discussed. For example, the moral earnestness of Mosca may not be exactly the same as the Sorelian cult of the strong man and political violence. While there might be ample room for the extended discussion of such points, we are startled to find that the laws of politics have been so well stated for so long a time—even back to Machiavelli himself. Professor Burnham might have made more of a contribution had he indicated areas in which the "laws of politics" are yet to be discovered.

Following page 220, the author reaffirms the principle of the managerial revolution; he accepts the élitist interpretation of politics; he argues that democracy as "self-government" must "be understood as a myth, formula, or derivation" (p. 236). Democracy is moving, he thinks, toward the Bonapartist system of leaders confirmed by plebiscites (p. 239). He believes that a right of opposition to the élite can exist, and that herein is liberty and democracy. But the attempt of the élite to act scientifically in politics runs head on into the contrary necessity of political myths for the cohesion of society (p. 269). On the final page he concedes to man a "minimum of moral dignity," without very succinct suggestions as to the source or basis of such dignity.

Those who oppose Burnham's views will admit much of the value of descriptive studies, though they will say that if man has any "moral dignity," it is important as a part of *politics* to know where it comes from. They might even argue that the author is not himself in the end "neutral with respect to any practical political goal" (p. 223).

FRANCIS G. WILSON.

University of Illinois.

Constitution-Making in a Democracy. BY VERNON A. O'ROURKE AND DOUGLAS W. CAMPBELL. (Baltimore: The Johns Hopkins Press. 1943. Pp. xiii, 286. $2.75.)

This is a study of the New York State constitutional convention of 1938, in which the authors view the convention as an integral part of the American processes of self-government. Their thesis is that constitution-making cannot (and should not) be divorced from the social complexities and the political scene out of which the demands for change arise. The

constitutional convention, they maintain, is an instrument of popular or group control, blessed by all the virtues and plagued by all the shortcomings of the ordinary state legislature.

In presenting these legislative aspects of the convention, the authors say: " . . . in form, substance and spirit the convention could easily have passed for its technically inferior sister, the legislature" (p. 192). The delegates were nominated and elected on a partisan basis; the majority party organized the convention and dispensed patronage "according to principles well established by legislative practice." The early weeks of the convention were given over to organization, political maneuvering, and committee assignments, but in the last three "a flood of proposals was speedily disposed of amid scenes of confusion. . . . " The activities of the numerous pressure-groups were carried to the floor of the convention. "Politics" and "pressures" followed the proposals from the convention to the ballot box and produced repercussion in the ensuing session of the legislature.

This description of convention activities provides a realism which is not found in the earlier studies of American constitutional conventions. The middle chapters (Chap. III, "Constitution-Making by the Calendar"; Chap. IV, "Job Politics at the Convention"; Chap. V, "Party Strategy at the Convention"; and Chap. VI, "Pressure Politics at the Convention"), which constitute by far the best section of the book, make a real and substantial contribution to the literature of the field. In each of these the authors emphasize, point by point, the fact that constitution-making in the modern state is *a part of*, rather than *apart from* the politics of democracy. That is, they contend, as it should be, and this in spite of popular constitutional myths and frequent demands that constitution-making be kept out of politics. "It would seem to be futile, and even dangerous," the authors conclude, "for a democracy to think of the problem as that of taking constitution-making out of politics. Is this not, in effect, saying that we should take politics out of democracy?" (p. 270). A frank recognition of the fact that the people cannot govern, even for the brief interval of a constitutional convention, except through established agencies, might provide a more substantial convention leadership. The proposition merits serious consideration.

Unfortunately, the study is limited to New York State and almost entirely to the convention of 1938. On the whole, the propositions set forth will find substantiation in the proceedings of conventions in other states, and over the period of the past century. The study is itself fresh; but the phenomena described are almost as old as written constitutions. The propositions presented can be matched almost point for point by reference to the proceedings of the Michigan convention of 1835. Constitution-making has changed little in the course of a hundred years, and that change has

been in degree rather than in kind. Further, reference to experiences in other states would have provided criteria for an appraisal of the proposals advanced in the concluding chapter. The fact, however, that the authors are attacking problems of long standing, or that their investigations are not exhaustive, does not detract from the value of the study.

The book bears all the earmarks of careful investigation and accurate reporting. It provides interesting as well as profitable reading and should appeal to readers beyond the circle of professional political scientists. It should provide, also, an inspiration for further study. The authors do not exploit all possibilities. The chapter "Pressure Politics at the Convention" might well be expanded to monograph length.

HAROLD M. DORR.

University of Michigan.

Can Our Cities Survive? BY J. L. SERT. (Cambridge: Harvard University Press. 1942. Pp. xi, 259. $5.00.)

The City: Its Growth, Its Decay, Its Future. BY ELLIEL SAARINEN. (New York: Reinhold Publishing Corporation. 1943. Pp. xvi, 380. $3.50.)

New York Plans for the Future. BY CLEVELAND RODGERS. (New York: Harper and Brothers. 1943. Pp. xvi, 293. $3.00.)

The appearance of these three books within a few months of one another marks a significant advance in our awareness concerning the actual past and the potential future of our cities. All are addressed to the citizen rather than to the professional planner or architect; each, from a different perspective but with a common purpose, seeks to draw the citizen's attention to the possibilities of post-war urban reconstruction. Their impact on our thinking will be measured by the action which we take to implement the ideas and prescriptions they provide for the cure of urban blight—the major social disease still stultifying our technological advances.

Mr. Sert's *Can Our Cities Survive?* is a brilliant picture-book manual of city planning. It provides a precise—and incisive—diagnosis of the disease of urban blight and of the remedies available to us. In pictures, maps, and charts accompanying a penetrating textual analysis, he raises a series of questions answerable directly from the experience of every urban dweller. About half of the book is, in fact, visual, not textual. It is the point product of the studies of urban growth and decay carried on by European and American planners and architects organized in the Congrès Internationaux d'Architecture Modern (C.I.A.M.). The group, established in 1928, has moved progressively from the primary consideration of architectural problems to the broader issues involved in city-wide and regional planning. This volume reflects the shift in perspective.

Starting with the single dwelling and its improvement as a place for

human—and humane—living, the analysis proceeds to appraise the other factors implicit in adequate city planning. Among the topics treated are neighborhood planning, the provision of recreational facilities, the relations of industrial to living areas, transportation, street design and layout, and over-all city and regional planning. Prognosis follows diagnosis in each of these aspects of improvable urban conditions. Each analysis or argument in the text is illustrated by telling photographs or maps which serve to point up the appraisals and prescriptions by visual examples of their cause and cure. These illustrations are not in blueprint alone, but are derived from the actual results of concrete experiments to meet actual and exigent problems in American and European cities. If this volume were widely read by urban dwellers throughout the nation, becoming a sort of civic manual, progress toward decent—and intelligent—city planning and design would be rapidly advanced in the post-war period. It is undoubtedly the best single tract for the times in this field, for it presents to the eye as well as to the head, brilliantly in analysis and inescapably in illustration, the true tale of many cities.

Mr. Saarinen is not less persuasive. *The City* is more philosophical in approach and evolutionary in analysis. Beginning his appraisal with a review of the rise of the city in mediaeval times and its decline during and after the Industrial Revolution, he outlines the means for stopping "decay" in our time. His analysis is essentially genetic; his very language and illustration are biological. We must, he believes, understand what cities are for in terms of living before we can hope to create the proper form and structure of livable urbanism for the future. It was the loss of this "sense for correlation," possessed by the classical and mediaeval city-builders and architects, which produced the formless and ill-suited industrial cities of the nineteenth and twentieth centuries. We must recapture this sense, if we are to recreate cities fit to live and work in.

The key to this kind of planning the author defines as "organic decentralization." Any system of urban replanning would be satisfactory "on condition that it grows from actual habits of living, that it is used in the right proportion and spirit, and that it is instrumental in the solution of housing problems toward stabilization of values." By organic decentralization—the progressive expansion of open spaces in the hearts of our cities and the development of new suburban areas of planned living-industrial neighborhoods—these criteria can be achieved in an effective economic and social pattern.

It is significant that Mr. Saarinen devotes a substantial segment of his survey to the legislative and economic aspects of replanning our cities. Assuming the social value of large-scale urban redevelopment, it is often argued that property values would be so dislocated as to make it impracticable—fiscally and politically. Mr. Saarinen pretty well demonstrates

that the community as a whole would profit from effective redevelopment. Over-all land values would rise, whatever might happen to the artificial local values created by individual realtors within their Lilliputian developments. And, what is more, he outlines the legislative changes necessary to make large-scale redevelopment work, changes which take account of the Supreme Court's gloss of the Fourteenth Amendment in this field. Hardheaded as well as warmhearted in his diagnosis and prognosis, Mr. Saarinen has given us a brilliant philosophy of urbanism, deeply rooted in the physical and social needs of human beings, by which to test his blueprints for the future.

Mr. Rodgers' *New York Plans for the Future* applies this philosophy to our greatest metropolis—with the same penetrating insight and an equal passion for humanizing the steel and concrete pattern confining social action. As a member of the New York City Planning Commission, he has viewed the problems inherent in its redevelopment from an official perspective. But he analyzes the causes of the spreading urban blight among 7,500,000 people from angles as fresh as they are relevant. The structure of the city's government, its tax and land-appraisal policies, the problems of transportation internal and external, the relations of public and private housing, as well as the formal aspects of planning, are subjected to critical review—in terms understandable to the layman. Chapter headings suggest at once the content and the character of his approach—"One Community—Many Governments," "Why Local Taxes are High," "Babies and Real-Estate Values," "Law and Order for Buildings." Applying, as he does, an informed and urbane litmus paper to the biology of planning in a single city, Mr. Rodgers has contributed vividly to our understanding of the problems faced by all our cities in building for the future.

One major impression is left on the reader of these three timely and significant books. Daniel Burnham put it in a phrase—"make no little plans." If our cities are not merely to survive but to become places fit to live in—for all the people—all three authors believe that boldness, imagination, and the will to refashion their environment must flow in the veins of their citizens. Half-hearted planning, restricted to patchwork reconstruction of limited areas or objectives, will not catch up with the blight —of form and thought—inherited from the past and being reproduced too often in the present. To that process of civic awakening, political scientists have both a technical and an individual contribution to make. We can aid the public, of which we are a part, to understand, and we can also help to supply many of the technical skills indispensable to the construction of the Great City of the future.

PHILLIPS BRADLEY.

Queens College.

Traffic Courts. By George Warren. (Boston: Little, Brown and Company. 1942. Pp. xxvii, 280, $4.00.)

The National Conference of Judicial Councils was organized at the 1930 meeting of the American Bar Association to serve as a forum of discussion and a clearing house of information for the various state judicial councils. This study of traffic courts, the fourth volume in the judicial administration series, is sponsored jointly by the National Conference and the National Committee on Traffic Law Enforcement.

This is the first comprehensive nation-wide picture of prevailing conditions in the traffic courts of American cities. The material is well organized and clearly presented. First-hand studies were made in 76 cities with municipal courts. Information was obtained also by questionnaires to the state attorneys-general, 1,500 traffic court judges, and 12,000 justices of the peace, and through records and studies of other agencies, in 60 additional cities. The study resulted in 57 specific recommendations, which were approved by the National Committee on Traffic Law Enforcement, the National Conference of Judicial Councils, the American Bar Association, and also by the National Safety Council and the International Association of Police Chiefs.

The topics discussed include the laws governing the courts that enforce traffic laws; the types of courts where traffic cases are tried; traffic court procedure, administration, and records; violations bureaus; the "fix"; types of punishment for traffic violations; and traffic court personnel, including judges, prosecutors, and defense counsel. The final chapter describes a proposed state-wide traffic court system. "The ideal judicial system of traffic-law enforcement would involve the efficient trial of the cases on a uniform basis in a special court before a judge trained for that type of work. The closest approach to this ideal would be by means of a single traffic court for an entire state. . . . Modernized along traditional lines of specialization, with trained personnel functioning on a circuit basis from centrally located seats and under the supervision of a chief judge, such a court would furnish an efficient, effective, and impressive judicial system for the enforcement of traffic laws" (p. 237).

The need for reform is well-illustrated by an inter-city tabulation (p. 137) for 99 cities of the per cent of convictions to cases, with the conclusion that any city with an average for convictions in traffic cases which is lower than 90 per cent "would do well to make a check on its efforts." Two out of every three of the cities included in this computation had a lower percentage of convictions! Another illustration is the "unquestioned evidence of 'fixing' practices in traffic court cases in 39 of the 76 cities visited." It is to be hoped that at least some of the recommendations for improvement suggested in this study will be adopted in coming years.

Norman N. Gill.

Milwaukee Municipal Reference Library.

The Tennessee Valley Authority; A Study in Public Administration. By C. Herman Pritchett. (Chapel Hill: University of North Carolina Press. 1943. Pp. xiii, 333. $3.50.)

The significance of the TVA development has been attested by a flood of popular writing about it. A few serious and analytical studies can now be noted in this tenth year of the undertaking. One of these is clearly Mr. Pritchett's attractive work. As a study in public administration, it is, in a way, a fitting complement to a slightly earlier book by Joseph S. Ransmeier under the title, *The Tennessee Valley Authority; A Case Study in the Economics of Multiple Purpose Stream Planning* (Nashville, 1942). Both of these studies are based partly on inside observation of the activities of the TVA, and both are sympathetic in a non-partisan sense toward the subject. Mr. Pritchett was an employee of the TVA Social and Economic Division from 1934 to 1937, and has written articles on the TVA for the *Virginia Quarterly Review*, the *Public Administration Review*, and other journals. He is keenly interested in the TVA as a Federal agency uniquely organized on the basis of a geographical region.

The Pritchett volume is a case study in public administration. The TVA has applied many of the best teachings on modern administration, and Mr. Pritchett measures its work and workings in terms of such teachings. To avoid a discussion of government in a vacuum, he gives an historical introduction and then devotes four chapters to the TVA's many-sided program before presenting four chapters in "Part Two: Administration." A concluding chapter is on "The Meaning of the TVA."

The author explains the favorable court decisions which were won by the Authority against powerful challengers. He tells the story of the feud between A. E. Morgan, the first chairman, and the other two directors, and its termination by President Roosevelt's removal of Mr. Morgan, who lost a court battle over retention of his position. His story is unfavorable to Mr. Morgan on personality traits. It is distinctly favorable to the two directors, David E. Lilienthal and H. A. Morgan, on the counts of integrity and efficiency. He gives an account of the controversy between the TVA and the Comptroller General over the issue of accounting flexibility and discretion attaching to the Authority's corporate freedom under the statute creating it. This issue was adjusted by a clarifying act of Congress in June, 1941, "with a reasonable victory for the cause of corporate freedom." Mr. Pritchett emphasizes the usefulness of the government corporation for carrying on economic enterprise, observing that the United States is trailing England in this respect. He says of the investigation of TVA by a joint congressional committee in 1938: "The light which this particular inquiry threw revealed an organization which had made numerous mistakes and errors in judgment . . . but which had

done on the whole a competent and honest job, and which in several fields had been responsible for creative accomplishment touching a new high level in American public administration" (p. 249).

This study shows the evolution of TVA administration from the equivalent of commission government, with three directors jointly determining policy and separately executing divisions of policy to a commission-manager form, with the directors working on a policy and a general manager supervising all execution of policy. This change followed the split with A. E. Morgan, and will tend to prevent such controversies in the future. The discussion of this process seems to be the heart of the study. More might be said about the statutory shortcoming as to this feature.

Mr. Pritchett shows that, as a regional agency functioning in many fields, the TVA might have clashed with many other agencies and departments, but observes that this has been avoided by tact and coöperation. He praises the Authority's independent merit system as equal to the best in the Federal government, but he feels that this independence may be less necessary in the future, with the recognized improvement in personnel under the influence of the Civil Service Commission. This raises the issue of centralization *versus* regional decentralization, which could be raised over several features of the TVA. Mr. Pritchett hedges, in his favorable appraisal of the Authority, by making it clear that the experiment could not be universally duplicated over the country with the same degree of administrative autonomy. The unique must remain unique.

H. Clarence Nixon.

Vanderbilt University.

The Tragedy of European Labor: 1918–1939. By Adolf Sturmthal. (New York: Columbia University Press. 1943. Pp. xii, 389. $3.50.)

This book is a brilliant analysis of the tactics and politics of European labor between wars. It bears directly on what is in some respects the central problem in understanding that period. In 1931, the Socialists had twenty-six million voters in the principal European democracies. Their views were propagated by 360 daily newspapers, and they had 1,300 parliamentary representatives. They were men of good will, potentially the most important *bloc* in European politics. Moreover, they could count on some degree of support from the powerful Communist forces, though the party line precluded much fraternization during most of the period. Why, then, were these political groups so ineffective in preventing the ultimate fascist victory? In short, where was labor while the lights went out?

Sturmthal, who was in the midst of these events and who had close contacts with the Social Democratic organizations, has an answer. He

states it in his first two pages, and devotes the rest of the book to illustration and substantiation. His thesis is that the weakness of the labor parties lay in their pressure-group mentality—their narrow concern with problems affecting the welfare of their own members, to the exclusion of larger issues and the fate of the community of which labor formed a part. And yet they held themselves out to be, not merely pressure groups, but political parties, and as such they were called on to form governments and adopt national policies. For this rôle they were not prepared. When they came to power, they devoted their attention to the defense of trade unionism and the maintenance of wage rates and unemployment benefits, not to basic economic and political issues. As late as 1936, the French Popular Front was concerned, not with Hitler, but with social reform. Socialists, while dutifully professing their creed, were content, and even relieved, to think of its attainment as pie in the sky. Meantime, capitalism had to be run according to its own laws, and so Socialist ministers produced policies of utter and unimaginative financial orthodoxy. The tragedy of European labor was that it became strong enough to prevent the smooth working of the existing social system, but not strong or constructive enough to supersede it by another. Under these circumstances, a balance of class forces, a social stalemate, was reached, which ended in totalitarian dictatorship and fascism.

It is along these lines that Sturmthal develops his argument. He examines the failure of the German revolution, labor's policy in dealing with the depression, labor's attitude when confronted with the rise of fascism, and labor's foreign policy down the sorry road through Spain and Munich. It is not a heartening story.

Sturmthal has a word of warning for those who may assume that this European experience proves the wisdom of American labor in sticking to its traditional pressure-group rôle, and not assuming the responsibility of a political party. His conclusion is not that European labor mixed too much in politics, but rather that it did not go far enough politically in accepting real responsibility for national welfare. He does not mean that it is necessary for American labor to organize as a separate political party, but he does feel that American trade unionism has now developed to the point where a balance of class forces, such as produced fascism in Europe, is imminent, and that escape from this fate requires "real and responsible political action by labor," a willingness to accept the responsibilities, leadership, and a consciousness of the interests of the entire nation rather than of the industrial working class alone. Is John L. Lewis in the audience?

The book has a magnificent index.

C. Herman Pritchett.

University of Chicago.

The Goebbels Experiment; A Study of the Nazi Propaganda Machine. By Derrick Sington and Arthur Weidenfeld. (New Haven: Yale University Press. 1943. Pp. xiii, 274. $3.00.)

This study is an interesting and useful narrative, description, and exposition of the activities of Joseph Goebbels and his associates. Many have written about the propaganda product of the Goebbels organization, the effect of that propaganda upon the German people, or reactions to it abroad. This story deals with the actual propaganda and its effect only as incidental to the main theme—the promotional activities. For this account, the authors "have relied largely upon broadcasts by the German radio during the war, upon the German press from 1933 to 1942, and on German publications of many kinds which have reached England up to June, 1942." Some reliance has evidently been placed, also, upon contributions and suggestions coming from those who have had direct contact with Germany and Germans during the Nazi period.

By way of setting, the first chapter gives an account of the National Socialist party between 1918 and 1932, but largely in terms of the party propagandists and organizers. Part II deals with the personalities, media, activities, relationships, and control of the party propaganda department and the party press. The final and longer Part III deals similarly with the Ministry of Public Enlightenment and Propaganda, under such headings as "The Propaganda Ministry," "The Reich Chamber of Culture," "The Controlled Press," "Broadcasting in the Third Reich," "Propaganda and the Armed Forces," "The Cinema in the Third Reich," "The Controlled Theatre, Literature, and Propaganda," "The Fine Arts as Propaganda," and "Music as Propaganda." Throughout, the emphasis is skillfully and successfully placed upon unbiased description, which proceeds in terms of personality sketches and history, activities and their relationships, tactics, techniques and operations, control and coördination, and skills or directives.

The volume will be a welcome addition to libraries or syllabi of publicists and teachers who have been interested in Nazi propaganda and may have wondered where they could easily secure a systematic account of the promotional activities of the Nazi propagandists. Such material is not easily assembled or described dispassionately. The serious reader will be bothered by the fact that the authors have presented frequent quotations, but with very little of exact citation such as could facilitate check or subsequent systematic inquiry. The appended bibliography of main sources, other than German broadcasts, classified by chapters, does leave a useful trail supplementing the writers' observations. Also, emphasis upon the term "experiment" could be misleading, for it is employed merely in a literary sense.

Aside from the volume's great value in rounding out the picture of Nazi

government, the study makes a significant contribution to the analysis of administration, even of administration in a democracy. This contribution is not achieved by the organization charts which support the authors' emphasis upon administrative "machinery." Lists of offices and officers could serve just as well as the charts. The valuable thing is that the text describes the operations of high and of low officials in terms of activities and techniques, particularly activities *at the point where the administrative "machine" actually touches citizens.* This is rarely achieved in the bulk of writing on American administration, which deals almost entirely with officials and official relationships. Of course, administration in a country such as Nazi Germany operates upon citizens with tremendous coercive power. But even in a democracy like ours, administration deals extensively with citizens, either by way of restriction or of direction. If that is not true, then administration is an expensive luxury.

HERMAN C. BEYLE.

Syracuse University.

Slaves Need No Leaders. By WALTER M. KOTSCHNIG. (New York: Oxford University Press. 1943. Pp. xv, pp. 284. $2.75.)

Contending forcefully that "this war is being fought in the schools as much as on the battlefields . . . [and] that education must play an absolutely vital rôle in the post-war world" (p. 121), Dr. Kotschnig proceeds where P. E. Corbett, E. H. Carr, and other post-war planners have left off. Against an extended and balanced appraisal of education in the major countries of Europe and the United States between 1919 and 1939, the author sets the pressing needs and tremendous problems of educational reconstruction amidst the physical destruction and moral disintegration of a war-torn Europe. Aware that "education by itself will never create either a new social or international order," he discusses "the kind of peaceful order within which post-war education is likely to be constructively effective" (pp. 122–123).

Since no peace is possible in an Axis-controlled world, or as the result of a military stalemate, and since a Carthaginian peace would defeat its own ends, Dr. Kotschnig concludes that "the seemingly impossible will have to be attempted, i.e., a peace based on mutual understanding and coöperation rather than on prejudice and force. In other words, a peace which Britain and the United States . . . will be willing to enforce not two but twenty years after the war, because it will still appear to them as a just peace; and a peace the Germans and the Japanese, or a large majority of their people, will be willing to uphold because it assures them of a place in the world in keeping with their creative abilities" (pp. 124–129). In this peace, "Education for an International Order" will have to take on special importance, under Anglo-American leadership. The relative rôle

which can be played in the various countries by Americans of recent European extraction, by refugees, and by the men and women who have lived through Hitler's hell is discussed with realism and concreteness. The author entertains "some real hope" for German re-education and his discussion of "The Case of Germany" belongs to the most challenging portions of the book (pp. 185-210).

Kotschnig's background as an Austrian student of early post-World War I days, former secretary-general of the International Student Service at Geneva, League of Nations aid for refugee professors, and his present efforts as chairman of the subcommittee on international education and educational reconstruction for the Committee to Study the Organization of Peace force respect for his views which is enhanced by his able presentation and logic. Students of international relations and comparative government have long been in need of exactly this type of analysis of the relation between education and international order or chaos.

JOHN BROWN MASON.

Fresno (Calif.) State College.

Principles of Private International Law. By ARTHUR NUSSBAUM. (New York: Oxford University Press. 1943. Pp. xvi, 288. $3.50).

Private international law, or conflict of laws (also known as international private law, intermunicipal law, extraterritorial recognition of rights, etc., etc.,) owes its existence to the diversity in law created by territorial sovereigns. When a suit involving a foreign legal element comes before a national court, that court will find it necessary to recognize foreign law to avoid injustice and to protect vested rights. The court must utilize rules to resolve the differences or conflicts of law relating to the matter litigated. Whence come these rules? Three schools of jurisprudence vie in postulating them: the neo-statutists (affirming the personality of the law); the internationalists (asserting the existence of a common, customary, international set of norms); and the territorialists or nationalists (recognizing national law and treaties as the only source of the conflict rules). According to Nussbaum, "Today, the 'nationalist' conception of Private International Law can be considered dominant. It is the only hypothesis conforming to the facts. There are just as many 'Private International Laws' as there are legal systems" (p. 42).

G. C. Cheshire, the English jurist, spoke of the fascination, "perhaps . . . the fatal fascination," of the subject of private international law. Nussbaum, in his Introduction, speaks of its cosmopolitan character, its challenge to inquiry "into the essence of legal phenomena," its demands upon scholarship, its reliance upon authoritative writing. It would be hard to imagine one better qualified than Nussbaum to explore critically the principles of private international law. For a number of years until

1933, he was professor of law at the University of Berlin, where he taught private international law. Now he is research professor of public law at Columbia University. Among his works in German (two of them translated into Spanish and Japanese), beginning in 1909, are commentaries on the German Stock Exchange Law, works on German mortgage law and credit, money in the theory and practice of German and foreign law, four volumes of the *International Yearbook on Civil and Commercial Arbitration; German Private International Law;* and, in English, *Money in the Law* (1939), besides numerous articles in American and foreign legal periodicals. His present work is published under the auspices of the Columbia Council for Research in the Social Sciences.

Nussbaum reviews the major theories and currents of private international law, historically considered, espousing for himself the "nationalist" theory. Then, against a background of civil law and Continental systems of conflict rules, he examines critically the principal concepts, criteria, and rules generally applied in practice, with special emphasis upon Anglo-American law. Opposed to speculative and conceptualistic approaches and particularly to the vested right theory of the territorial school, he essays a "more realistic approach," "which requires the occasional use of psychological, political, and other non-legal data or explanations." In line with this approach, he takes exception throughout the critique (particularly at pp. 28, 65, 149, 162, 170, 238, 241, 247) to various features of the American Law Institute's *Restatement of the Law of the Conflict of Laws*, to its reliance upon the views of Professor Joseph H. Beale, and to elements in Professor Beale's own monumental treatise. Nussbaum, in the legal lists, wields broadaxe, rapier, and poniard. Partisans of the *Restatement* will no doubt sharpen their lances for a return joust.

Political scientists without private law training will profit particularly by the discussions of American interstate conflict rules, applications of the several clauses of the Constitution to the subject, the relation of private international law to public international law, and the international efforts to unify private law and codify conflict rules. Student, teacher, practitioner, and judge should welcome this incisive, stimulating supplement to case book and treatise. The style is crystal clear and straightforward; the scholarly apparatus, without flaw.

HENRY REIFF.

St. Lawrence University.

The World of the Four Freedoms. BY SUMNER WELLES. (New York: Columbia University Press. 1943. Pp. x, 121. $1.75.)

When originally delivered, the twelve addresses which constitute this volume were scanned for clues as to immediate next steps in American foreign policy. Brought together, they will be studied as a rounded state-

ment of the objectives in foreign policy which our distinguished Under Secretary of State believes America ought to pursue.

The first speech, delivered before the Meeting of Foreign Ministers of the American Republics in September, 1939, differs substantially in its spirit and substance from those that follow. Mr. Welles seemed to say that the Americas had a right not to be inconvenienced by other peoples' wars and were meeting to minimize that inconvenience. Twenty-two months later, in the second speech, he was speaking of the common cause of free men and women everywhere.

The keynote of the volume is in the following question: "Who can today compare the cost in life or treasure which we might have had to contribute towards the stabilization of world order during its formative years after 1919 with the prospective loss in lives and the lowering of living standards which will result from the supreme struggle in which we are now engaged?" We, too, are responsible for the present holocaust; but after this war, if Mr. Welles has his way, we shall be prepared to enforce peace, even at the cost of American lives and American treasure.

The essence of the Good Neighbor policy is, according to the Under Secretary, its scrupulous respect for the equal sovereignty and dignity of all states, great and small. As such, he proposes it as a model of world-wide applicability. The necessary preponderance of the great states in the political processes of winning the war and enforcing the peace is evidently not to extend to legal and ceremonial questions.

Other proposed ingredients of Mr. Welles' proposed post-war settlement are: (1) a long armistice, with the terms of peace worked out only at the end of the armistice period; (2) agreement among the United Nations, before hostilities cease, upon machinery for coöperation in peace; (3) the familiar four freedoms; and (4) access for the less prosperous states to the markets of America and the other great industrial economies.

A high moral tone and a generous recognition of America's share of responsibility for the present war distinguish this volume, although on two occasions (pp. 62–63 and 95–96) it reveals a vein of sarcasm which is something less than generous with respect to critics of recent State Department policy.

WILLIAM T. R. FOX.

Institute of International Studies,
Yale University.

The United States and the Far East: Certain Fundamentals of Policy. BY STANLEY K. HORNBECK. (Boston: World Peace Foundation. 1942. Pp. 100. $1.00.)

Pacific Charter: Our Destiny in Asia. BY HALLETT ABEND. (Garden City, N. Y.: Doubleday, Doran and Company. 1942. Pp. 302. $2.50.)

Dr. Hornbeck presents a concise statement of the fundamentals of

American Far Eastern policy as it has been officially defined and in its recent application. His exposition is extended by the inclusion of six documents as appendices. Thus this little volume can be read with assurance that it gives a sound background of information as to past policy against which to measure the more critical and speculative writings of students and journalists. While it is concerned largely with the China policy of the United States, which has until recently been its Far Eastern policy, Dr. Hornbeck fits that policy into the larger framework of American foreign policy.

Mr. Abend, on the other hand, is not so much concerned with what the policy of the United States has been as he is with what it should be in the future. Thus his work should be read with the understanding that he presents his conclusions as a trained journalist of long residence and wide contacts in the area of Eastern Asia rather than as a documented historical study. His procedure is to move from country to country. In general, his conclusions are similar to those of many recent commentators. As to Japan, Mr. Abend believes that its "expansive greed cannot be checked merely by disarming Japan. Her military caste must be utterly discredited, her entire system of education must be remade, and her form of government must be changed, even though the Atlantic Charter incautiously declares for 'the right of all peoples to choose the form of government under which they will live' " (pp. 33–34). He does not, however, suggest the methods of putting this program positively into effect. Negatively, he emphasizes the blow that would be struck at militarism by dethroning the present ruler and eliminating the dynasty. He also warns against putting trust in some of the leaders now in obscurity if they should come back into power in the expectation that they would be able to secure a "soft" peace.

Mr. Abend goes along with others in his belief in China and in the need for establishing her in a position of effective equality with her allies. He does not believe that any vestiges of Western control of relationships should be maintained, and he does believe that every effort should be made to facilitate the reconstruction of the country.

In a succession of chapters dealing with the colonies of various powers, Mr. Abend presents the thesis that the movement must be toward freedom. He does not believe, however, that Korea, for example, is ready for complete self-government. In that case, and in some others, he comes to the conclusion that there should be international supervision or administration until there has been preparation for complete self-control. His strongest condemnation is for the French as colonial administrators in Indo-China. Thus he expresses complete disagreement with any tendency toward commitment to restore the French empire in Eastern Asia or the Pacific.

Much of the treatment, both in content and method, is conventional. The chapters, "Matsuoka in Reserve" and "Konoye the Gambler," however, are based upon direct personal contacts rather than on external observation. Some of this material has been published previously, but that does not detract from the usefulness of its inclusion in the volume under review.

Unquestionably there are points of view and conclusions expressed in *Pacific Charter* with which there will be disagreement. There will be a natural temptation to compare it with other volumes, such as Mr. Peffer's *Basis of Peace*, in certain respects to the disadvantage of *Pacific Charter*. Its scope is broader, but there is, for example, more internal inconsistency, and the analysis in support of the conclusions presented is less complete. Nevertheless it is a book that should have a wide reading, and the conclusions presented should be given careful consideration by those who are marking out the lines of present policy.

HAROLD M. VINACKE.

University of Cincinnati.

Postmortem on Malaya. By VIRGINIA THOMPSON. (New York: The Macmillan Company. 1943. Pp. xvii, 323. $3.00.)

The Making of Modern New Guinea, with Special Reference to Culture Contact in the Mandated Territory. By STEPHEN WINSOR REED. (*Memoirs of the American Philosophical Society*, XVIII. Philadelphia: The American Philosophical Society. 1943. Pp. xix, 326. $4.00.)

Postmortem on Malaya is the third book dealing with Southeast Asia which Dr. Thompson has written in recent years. The author is familiar with the area and her competence in describing the countries of southern Asia is attested by the respect with which her volumes on Indo-China and Thailand have been received. The present work, as the title indicates, was written after the fall of Singapore; and the author's viewpoint has been colored by the revelation of the weakness of the British position in Malaya. To some extent, the statement of Sir George Sansom, in a foreword, that Dr. Thompson wrote as a prosecutor rather than as a judge appears to be justified by her strictures upon British policy. It should be added, however, that if the spirit of the volume and some of the judgments which it contains have been affected by the conquest of Malaya, it also seems true that the bulk of the book might have been quite similar had it been written prior to the outbreak of war in the Pacific.

Apparently Dr. Thompson believes that the recent history of Malaya may be most satisfactorily explained by an understanding of the economy of the region. This is suggested by the emphasis on economic problems in the introductory chapter entitled "Rulers and Subjects"; it is further

indicated by the fact that seven of the thirteen chapters deal specifically, and in some detail, with such questions as the major products of Malaya or with the related problems of trade, finance, and labor supply. These chapters reveal the shifting basis of the commerce of Singapore, the stubborn adherence of the merchants of that community to the principle of *laissez-faire*, the conflict between powerful European merchants and their Chinese competitors, the growing dependence of Malaya upon markets in the United States, the jealousy between native Malays and immigrant Chinese and Indians, and the apparent indifference of the government to the low standard of living of the mass of the workers, especially in urban centers. Throughout these chapters runs the implication that official policy in Malaya was responsive to the interests of wealthy British merchants and the great planters. There is surprisingly little reference to either the theory or structure of government, but the concluding chapter, "Malay Nationalism and the War," is a brief and suggestive survey of the unenviable position of the Malays in their own land.

To some extent, Dr. Thompson has covered the same material which was so ably described by Professor Mills in his recent *British Rule in Eastern Asia*. This volume differs from its predecessor, however, in an emphasis upon Malayan economy rather than government and in the rather critical attitude assumed by the author. Unlike Professor Mills, Dr. Thompson finds no indication that British policy has been developed with any particular concern for the welfare of the natives, and she is not impressed by the government's achievements in such fields as education and public health. She tends to exonerate British officials in Malaya of stupidity or gross neglect of their duties, but she does believe that they were strangely credulous in their assumption that Malaya and Singapore were safely removed from the danger of external conquest. If Professor Mills may be regarded as having presented in a scholarly manner the case for Great Britain, it is equally fair to say that Dr. Thompson has presented in restrained phraseology a critical "postmortem" on British policy in Malaya.

The Making of Modern New Guinea is a study in cultural anthropology. The central theme is the modification of aboriginal culture resulting from the penetration of the area by Europeans. The title is slightly misleading, for Dr. Reed has confined his survey to the Territory of New Guinea, which includes only the northeastern quarter af the island, together with adjacent archipelagoes.

The volume is a combination of the social history of a primitive people and the descriptive sociology of culture patterns in transition. The opening chapter contains an account of native society as it existed prior to the coming of the foreigner. Four chapters trace historically the modification of New Guinea culture as a result of European influences. One chapter deals with the somewhat limited economic prospects of the Territory; and

the concluding chapter describes New Guinea society as it existed in 1940, and which the author significantly calls "the genesis of a new society." Throughout the volume there is a consideration of such important agencies of foreign influence as indentured servitude, government representatives, missionaries, and European residents and visitors.

The author presents no particular thesis and passes few judgments upon men and institutions. The result is an objective and scholarly account of social change under conditions which are virtually unique. Under any circumstances, this volume would be an important addition to the literature of anthropology. It is particularly timely because of the probability that Americans for some years to come will have a peculiar interest in the problems and peoples of the southwest Pacific.

HAROLD WHITMAN BRADLEY.

Stanford University.

World Minerals and World Peace. By C. K. LEITH, J. W. FURNESS, AND CLEONA LEWIS. (Washington, D. C.: The Brookings Institution. 1943. Pp. 253. $2.50.)

This treatise is divided into three parts. Part I presents a factual study of physical, technological, and commercial trends in the field of minerals. The sources of production of, and the international trade in, important mineral materials are stated, and the mineral position of leading countries is discussed with special emphasis on the United States and the two belligerent groups in the present war. The authors conclude that new mineral discoveries, the development of new extractive technologies, and the search for substitute materials are unlikely to bring about any great change in the present geography of mineral production and distribution. No nation is, or can become, self-sufficient in minerals, and there will be no lessening of the existing interdependence of nations and continents for mineral supplies.

This part of the book is a model in scholarly presentation and interpretation of facts and in the lucidity of its diction. Part II—discussing recent trends in political and economic control of mineral production and distribution—deserves less praise. There is a good descriptive account of the various types of control (monopolies, cartels, tariffs, closed-door policies, nationalization measures, etc.) and their distribution in the various mineral fields and countries. But the political and economic analysis of the effect of these controls lacks both breadth and depth. This is regrettable since international control of raw-material production and distribution is definitely on the agenda of Allied peace-planners, and since the book proposes to clarify the issues that are to be settled after the war.

Part III contains a chapter by Professor Leith on "Mineral Control in Relation to Peace," a subject on which he is a world authority. Instead of simply stating the desirability of such international control in the

interest of a more durable peace, the author sets forth the essential requirements for effective control. The list is depressingly long. The group of nations that elects to preserve the peace of the world must remain united in this objective, and its members must be in possession of most of the world's mineral resources. Control machinery must be in operation prior to the actual outbreak of future aggression. This control must continuously allocate mineral materials in the light of peace-time needs, prevent evasion by the supervision of mineral-consuming industries in all suspect countries, set up patrols against smuggling activities, and provide for machinery to enforce compliance. Dr. Leith's excellent analysis of these problems is exhaustive. Admitting the economic costs involved, he advocates the adoption of such a comprehensive control plan in the interest of world peace. Reading between the lines, the reader will notice that the author is not sanguine about seeing a really workable scheme set up.

Three appendices contain valuable statistics, and Miss Louise Bebb merits special commendation for the book's instructive maps and charts.

K. E. KNORR.

Stanford University.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

In *The Rôle of the Governor in Michigan in the Enactment of Appropriations* (Bureau of Government, University of Michigan, 1943, pp. ix, 147), John A. Perkins presents a case study devoted principally to the governors from 1921 to 1941 inclusive. He analyzes the influence of the several governors through messages, special sessions, item veto (including reduction of items from 1911 until declared unconstitutional in 1931, and pro-rata reduction by legislative authority from 1935 to 1940), the executive budget, emergency appropriations generally handled by the State Administrative Board, and various extra-constitutional powers such as the executive lobby, patronage, and party and public leadership. He says that a new governor must present his budget a few days after he takes office, so that it has rarely been formulated under his direction. The document should be strengthened by an explanatory message rather than merely a perfunctory and meaningless statement. In any case, the legislature habitually makes appropriations greatly in excess of the budget recommendations and anticipated revenues. Then the governor must reduce the appropriations through the item veto, and hence prepare the real budget after the legislature adjourns. He criticizes this procedure in that it reverses the relationship that should exist between the governor and the legislature, as advocated by recent budget reformers. Occasion-

ally Dr. Perkins adds a realistic touch. He admits frankly that all governors, whether weak or strong, have often found extra-constitutional powers of greater importance than their constitutional and legal powers in influencing appropriations. Elsewhere (p. 179) he says: "The adoption of a constitutional merit system removes a powerful weapon from the governors." Of course he does not advocate the spoils system; he merely recognizes patronage as an effective means of influencing legislators. Throughout the book, Dr. Perkins contends that the constitutional and legal powers of the governor in the financial field are inadequate and need to be bolstered. He would strengthen his budgetary power and authorize the reduction as well as the veto of items. He also indicates from time to time that the governor is not the chief administrator of the state, and that elective officials and other agencies have often lobbied against his budget recommendations. Similar detailed studies of the enactment of appropriations in other states would be helpful to students of budgeting and financial administration.—William L. Bradshaw.

One of the recent additions to the growing list of state government studies is J. G. Heinberg and A. C. Breckenridge's *Law Enforcement in Missouri* (University of Missouri, pp. 77, $1.25), which, as its sub-title indicates, is limited largely to a discussion of the tendencies toward centralization and central control in "apprehension and prosecution" during the decade 1931–41. The major portion of the study deals with what the authors call central agencies of law enforcement, namely, the highway patrol, the governor, and the attorney-general. A somewhat detailed account of the legislative history of the highway patrol act is given, together with a description of the patrol's organization, jurisdiction, equipment, and activities. Legislation giving the governor the authority to appoint and remove the superintendent of the highway patrol, the supervisor of liquor control (both appointments require senate approval), and the police commissioner of Kansas City; a court decision affirming the supreme court's power to remove prosecutors and sheriffs in proceedings instituted by the attorney-general upon the order of the governor; and the aggressiveness of governors, particularly Governor Starke, have all contributed to making the governor a more important factor in law enforcement. There is little in the study to indicate that the actual authority of the attorney-general in the field of law enforcement expanded greatly during the decade, although he was made responsible for the institution and prosecution of ouster suits when directed and ordered by the governor. The authors are in favor of continued "evolution" of central control, but apparently are opposed to an integration of such control. The reasoning offered in support of some of their suggestions is not very convincing.—Pressly S. Sikes.

The Question of Expatriation in America Prior to 1907 (Johns Hopkins Press, pp. 128, $1.50 paper, $2.35 cloth), by I-Mien Tsiang, is a small but very useful volume in the Johns Hopkins University Studies in Historical and Political Science, written in scholarly fashion with ample notes and bibliography. The author begins with chapters on English law in 1783, which undoubtedly provided for perpetual allegiance. Jefferson believed that every citizen had a natural right to change his allegiance, but Hamilton held the British view. There follows a valuable account of the struggle of our government in 1800–68 to win from foreign states an acceptance of our view that naturalization in the United States meant the automatic severance of all former political allegiance. This analysis includes discussion of the famous cases of Jansen v. Vrow Christina Magdalena (1794) and United States v. Williams (1799). The Supreme Court did the clearest and most consistent thinking on the subject, although its decisions are not entirely satisfactory; still less are those of the state courts. There is an excellent treatment of expatriation as contrasted with the problem of visit and search of ships in time of peace, which was the chief cause of the War of 1812. In addition to political reasons, the fact that we did not allow Americans to sever their allegiance by naturalization in other countries, and that doubts existed as to the constitutionality of proposed laws, helped delay Congressional action. Finally, by the act of 1868, Congress provided that American naturalization should automatically terminate former allegiance. Treaties were soon made with fourteen foreign powers in which naturalization was accepted as terminating former allegiance, but—with several exceptions—they stated the right of the former government to seize naturalized Americans returning to their native land and to punish them for previous offenses. In 1907, Congress specified conditions under which a person could abandon his American citizenship by naturalization in a foreign land. In the postwar settlement this book should prove very useful.—BESSIE C. RANDOLPH.

Americans on Guard (American Good Government Society, pp. xxix, 366, $5.00) is a collection of addresses by Col. O. R. McGuire, with a foreword by Roscoe Pound. The volume is edited by Richard Harwood-Staderman, president of the Good Government Society. The addresses included are those that "covered the greatest variety of principles of which we must be mindful after the War." Col. McGuire defends the judicial tradition of adjusting human relations and sees great merit in it when compared to the administrative. He is outspoken in his fear of the "recent swing to absolutism" and sees great danger in the establishment and excessive use of administrative agencies and the debauching of the electorate by largess of public money. His utterances on the subjects of officeholders who travel at public expense, use and abuse of

money powers, and absolutism of recently created governmental agencies are effective. The author's description of the rôle played by lawyers in the establishment and maintenance of the American system of government, while pleasing to the legal profession, may not receive the acclaim of the general public. While admitting the great contribution of this group to the field of American government, it is well to remember that the lawyers who have gone to Washington to work as administrators are just as bureaucratic as other administrators who serve without benefit of legal training. In breaking away from England and in setting up a new government, lawyers and laymen played active parts on both sides. James Madison was a layman, while Daniel Leonard was an aristocratic lawyer from Massachusetts who called rebellion a "most atrocious offense." Included in the addresses is one made before a DAR convention in which Col. McGuire stated: "Men and women bred in other climes know little of the struggles that have made us a great Nation. . . . They are termites in our body politic." In comparison, President Roosevelt, speaking before the same group, stated ". . . remember always that all of us, and you and I especially, are descended from immigrants and revolutionists." Certainly no reader of this volume will dissent from Col. McGuire's general conclusion that, in addition to liberty of thought and action, freedom of concience and equality of economic opportunity, "surcease from administrative absolutism" is also highly desirable.—ROBERT S. RANKIN.

In *Compulsory Health Insurance in the United States* (Northwestern University Studies in the Social Sciences, No. 5, 1943, pp. vii, 89, $0.75), Professor Herbert D. Simpson offers a timely addition to the literature in one of the more controversial fields of social security. The Beveridge Report in Britain and the social security report of the National Resources Planning Board in the United States have drawn both academic and popular attention to the problems of providing mass insurance against the numerous economic hazards of survival from "the cradle to the grave." Health insurance is but one phase, though an important one, of these problems. In seven succinct and penetrating chapters, Professor Simpson surveys the backgrounds of the compulsory health insurance movement, outlines the reasons for such a program, discusses the incidence of payroll taxes, analyzes carefully the current proposals in Congress, and summarizes various methods of achieving the goals of mass health insurance short of compulsory national action. Professor Simpson indicates clearly the fiscal and administrative complexities involved in creating a widespread compulsory health insurance program. Moreover, he suggests that existing public health activities and private, or quasi-private, health insurance schemes are already making a formidable attack on the general

problems of security in health. For these reasons, his general conclusion is that the national government ought to go slowly in setting up a compulsory program in this field. Though perhaps overly cautious in conclusions, this small book provides a rich and sympathetically critical analysis and appraisal of the practical problems involved in establishing a national compulsory health insurance program.—LORENTZ H. ADOLFSON.

In his *A Study in Public Relations: Case History of the Relations Maintained between a Department of Public Assistance and the People of a State* (Russell Sage Foundation, pp. 165), Harold P. Levy describes the public relations program of the Pennsylvania Department of Public Assistance. Several reasons led to the reporting of this particular program. The Department considers the conduct of public relations a specific function to be provided for in its administrative structure. Its organization of public relations activities represents an effective combination of skilled leadership and staff participation. The program has been conducted in a period of rapid change; it has been directed to a wide variety of recognizable groups or publics; and it has relied chiefly upon the use of information skillfully timed and applied. The author devotes a chapter to each of the following topics: the history of public opinion in Pennsylvania relative to public relief; the administrative organization and scope of the state public assistance program; the organization for public relations work; the various publics to which public relations activities are directed; correspondence as an informational medium; the press; public speaking; publications; and the services of the central public relations office to the county offices. The study is a straightforward, readable description, with ample illustrations of practical decisions. The author disclaims any attempt at appraisal of the results of the program, although such appraisal entered into choice of the particular program for description. The volume makes a distinct contribution to the literature of public relations management. It should provide valuable insights relative to the public relations function to persons engaged in programs of public service and many suggestions of procedures that can be applied with proper modifications to meet specific needs of various agencies.—LAVERNE BURCHFIELD.

War Time Problems of State and Local Finance; A Symposium Conducted by the Tax Institute, November 27–28, 1942 (Philadelphia: Tax Institute, pp. ix, 267, $2.50) presents seventeen articles by sixteen authors, with summaries of regional round tables held (before the general symposium in New York City) at Boston, Denver, Detroit, and Seattle, and a memorandum on fiscal conditions in Florida. The general topics discussed are: effect of the war on state and local costs and revenues,

inter-governmental problems, state and local responsibilities in winning the war, and fiscal policies to aid in post-war adjustment. Authors of articles include national, state, and local officials and members of research organizations, some of them well known. Only one came from west of the Alleghenies, though the regional round tables voiced the views in other sections of the country. Some governmental expenditures and revenues have increased, others have been reduced. A number of states have accumulated considerable surpluses; and many participants in the discussions support the policy of using these for payment of debt and accumulating reserves for postwar undertakings, though there was opposition to the reserve policy. The problems of tax exemption of government property, government contractors, and state and local bonds are discussed. Mr. Studenski calls the exemption of state and local bonds an unjustified subsidy. The policy of payments in lieu of taxes for government housing and other projects is approved, and planning for postwar public works and other capital undertakings is favored. In addition to questions of tax and expenditure policy, some attention is given to the need for improvements in fiscal administration; while Mr. Buck, of the Institute of Public Administration, supports more thorough reform of state government, and Mr. Ford, of the University of Michigan Bureau of Government, advocates reform in local government organization.—JOHN A. FAIRLIE.

Outstanding among legislative committee studies is the *Report of the New York State Joint Legislative Committee on Industrial and Labor Conditions* (Legislative Document, 1943, No. 39, pp. 266, on request). In its fifth year of activity, the committee and its staff have undertaken a comprehensive survey of industrial and labor relations, unemployment insurance, and education in the industrial and labor relations fields. Of particular value to the political scientist are the succinct observations regarding labor relations in the public service, labor-union practices, and state-federal relationships; an analysis of college and university courses in the labor-industrial field; and a suggested course outline for state teachers' colleges. Challenging are the observations and recommendations regarding post-war reconstruction, predicated upon our system of free enterprise—"the American way." The emergent problems of re-employment, women in industry, conversion of industry, small business, and agriculture are set forth briefly but convincingly, with especial stress upon the challenge for state governmental leadership. Valuable appendices supplement the body of the report. While readers will differ with certain of the conclusions and recommendations, it is not inappropriate to assert that this little volume ought to be required reading for social scientists, industrialists, labor leaders, and legislators.—DAVID W. KNEPPER.

In 1941, the Ohio General Assembly provided for an Administrative Law Commission, composed of the attorney-general, seven officers and members of the senate and house of representatives, and four others, the latter including Arthur T. Martin, dean of the Ohio State University Law School, as chairman. The *Report* of this commission is limited to a study of the 47 licensing agencies (issuing 187 types of licenses) and the handling of small claims against the state. It recommends the creation of an administrative board to advise these agencies in matters of procedure (in line with the recommendation of the U. S. Attorney-General's Committee on Administrative Procedure); and also to serve as a reviewing authority on small claims and on complaints concerning the refusal and revocation of licenses, with "appeal" to the supreme court of the state.—JOHN A. FAIRLIE.

FOREIGN GOVERNMENT AND POLITICS

Those interested in the problem of translating the idea of a "people's peace" into concrete measures of social security will find of value Harry M. Cassidy's *Social Security and Reconstruction in Canada* (Boston: Bruce Humphries, Inc., pp. 197, $2.50). The author, outstanding student of Canadian social services, modestly describes the book as "a tract for the times" rather than " a careful research study," with "very little that is original or new." None the less the book is a masterpiece of digestive and comparative analysis of the social security problems, achievements, and prospects in four countries—Canada, the United States, New Zealand, and Great Britain. For the foreign student of Canada, the book provides in Chapters II–IV an excellent description and criticism of the existing system of Canadian social services. For the Canadian reader, what emerges is a tragic picture of the incompleteness and backwardness of the Canadian system, a patchwork of temporary expedients to meet emergency problems, the poor administration of the existing services, low standards of personnel, inadequacy of public expenditures, and lack of research. Among the few bright spots are the establishment of a system of unemployment insurance after a constitutional amendment in 1940 and the recent government bill for health insurance, introduced since the publication of Cassidy's book. For Canadian readers, however, the book itself provides encouragement, with its recommendations for an adequate social security system, embodying the ingredients of British, American, and New Zealand achievements and plans applicable to Canada. Again, since the book's publication, the Canadian advisory committee on reconstruction has submitted to the Government the Marsh report, a Canadian counterpart of the Beveridge and National Resources Planning Board reports. Whether these proposals and the health insurance scheme already mentioned will surmount the political difficulties touched on in

Cassidy's book remains to be seen. The book will have a special interest for students of administration and federalism (Chaps. V and VIII). The controversy over the division of administrative and financial responsibilities between federal and provincial governments has been a serious obstacle to Canadian advance in social security. While generally praising the proposals of the Rowell-Sirois report on Dominion-provincial relations, Mr. Cassidy, disagrees with its conclusion that in general the spheres of action of Dominion and provincial governments should be kept rigidly separate and proposes instead the greatest degree of integration and federal leadership through the use of federal technical and advisory services and conditional grants-in-aid. Like the report itself, Cassidy rejects the idea of a monopoly of jurisdiction in the social services for either federal or provincial governments and proposes a division of function on the basis of the capacity of the different levels of government to perform the particular tasks in question, coupled with the integration described above. —H. GORDON SKILLING.

Internal evidence permits the conclusion that the author of *The Enigma of Admiral Darlan* (E. P. Dutton and Co., pp. 194, $2.50), who writes under the pseudonym of Alec de Montmorency, was either a naval officer or an official of the French Ministry of Marine. He seems to have been close to Darlan in the critical period of the breakdown of France, for some of the information can hardly have a source other than the Admiral himself. The book surveys briefly the background and career of Darlan and deals in the main (pp. 62–184) with events since 1939. The factual details, as far as they can be checked, are presented vaguely but on the whole correctly; as far as they concern such matters as the Darlan-Pétain-Weygand plot for a military dictatorship, or the events behind closed doors at the conference of Bordeaux between English and French representatives before the surrender of France, etc., their correctness can be confirmed only in a distant future when other reliable materials are available. On the surface, what Montmorency has to say is plausible. He describes the Breton, steeped in the royalist tradition of the French navy; the idea of a dynastic union between Spain and France, which explains much of Pétain's and Darlan's attitude towards Spain; the national pride and sense of personal honor which react with resentment against the insulting behavior of the British First Lord of the Admiralty; the impression which the Allied treatment of Norway made on the French and their desire to frustrate a similar act of exploitation in the case of France. It is regrettable that the author is a weak writer; with the materials in his possession, the tragic fate of Darlan could have been presented much more impressively. The plea for Darlan's patriotism is vain; for nobody will maintain seriously anyway that a Frenchman was a traitor because he held in con-

tempt some of the dubious figures of the Third Republic; and the wisdom of his collaborationist policy cannot be judged at present.—ERIC VOEGELIN.

According to the leaders of India's freedom movement, the British rule of India has become politically and economically intolerable as it has been morally unbearable. Now comes an official defense of the British régime by L. S. Amery, Secretary of State for India. He has long been regarded in that country as one of the unrelenting opponents of its claim to freedom. In his *India and Freedom* (Oxford University Press, pp. 122), Mr. Amery pays lip service to democracy and evades any real attempt to give it life in India. He says that the current World War is "a fight for freedom"; but he declares subtly that the 400 millions of India will have their freedom gradually in some vague, remote, unspecified period when the self-assumed "special obligations and responsibilities" of the London government have been fulfilled to its satisfaction. London is to be the sole judge, jury, and prosecutor. Particularly significant is the omission from the whole discussion of any reference to either the Atlantic Charter or the Four Freedoms. Amery is angry with those who decry the colonial system. He not only defends the imperialism of Rhodes and Chamberlain and Kipling, but insists on its perpetuation "at all costs and hazards" because of its alleged "idealism." He also asserts that the abortive Cripps proposal still "remains open"—the proposal rejected by all parties, factions, and groups in India. This booklet, made up of assorted speeches by Secretary Amery during the past two years, is issued with obvious propagandist purpose.—SUDHINDRA BOSE.

Hilde Oppenheimer-Bluhm's *The Standard of Living of German Labor under Nazi Rule* (New York: Social Research, Supplement V, pp. iii, 71, $0.50) is the latest of the research projects on social and economic controls in Germany and Russia organized under the Graduate Faculty of Political Science of the New School for Social Research of New York. This study undertakes to show that on the basis of available German official statistical data—adjusted, however, at times by the author to evaluate war-time trends up to 1942—the standard of living of German labor as determined by a measurable supply of goods and services had deteriorated markedly in 1939 when compared with the standard prevailing in 1929. This conclusion is reached by a factual analysis of labor's money income, of the efforts required of labor to gain its reward, and of the real income of labor in the selected years. Contrary to Nazi claims, and due largely to the subordination of all economic life to a pre-war rearmament policy, German labor is here shown to have fared materially less favorably under Nazi rule than under the Weimar Republic, with its

relatively uncontrolled labor market. In view of the factual evidence adduced by the author, this conclusion does not seem open to doubt, and to this extent it supports claims advanced sometimes on purely ideological grounds. The present monograph, of course, is limited to a study of German conditions. It does not attempt to compare the result reached with the standard of living prevailing elsewhere.—GEORGE MANNER.

A facsimile of the only known copy of the first constitution of Tamaulipas State (1825), made in Mexico City late in 1942 by Emilio Portes Gil, Marte R. Gómez, and José L. Cossio, presents some points of special liberal interest. In 1825, jurisdiction of Tamaulipas extended over a portion of the present state of Texas. This first constitution displays an interest in the Pan American ideal by making possible naturalization in one year rather than five for citizens of other Spanish-speaking countries of the Americas. Provision was made for the establishment of schools in every town. In all jails there was to be separate accommodation for those detained for investigation. It is fortunate that Emilio Portes Gil, Marte R. Gómez, and José L. Cossio have recognized these and other points of interest in this early Mexican state constitution and, in view of its extreme rarity, made it again available for the use of students of government.—J. B. CHILDS.

Under the title of *Constituciones Políticas de América*, Andrés María Lazcano y Mazón, a judge in the Audiencia of Havana, Cuba, has edited a two-volume collection (Cultural, La Habana, 1942) in Spanish of the present constitutions of all of the American republics. There is a preliminary comparative study of the various sections of the constitutions. Previously, the texts of these constitutions were often to be located only after much search in law collections as well as in separate form. The present collection should do much not only to facilitate studies in comparative government, but to call attention to the need for such a collection edited in English.—J. B. CHILDS.

A useful series of illustrated booklets on The World Today, issued by the Oxford University Press, presents in attractive form descriptions of political and social conditions in various countries involved in the present world conflict. *Britain and the British People* (pp. 141, 3/6), by Professor Ernest Barker, deals with social factors, the political system (Parliament, the cabinet, the monarchy, the administration, and local government), the system of law, religion and the churches, matters of the mind (education, the press and broadcasting, the arts), sport, and the social services. Other works in this series include: *U.S.A.*, by D. W. Brogan; *America*

in World Affairs, by Allan Nevins; and those on Canada, Latin America, Turkey, North Africa, and India.—JOHN A. FAIRLIE.

INTERNATIONAL LAW AND RELATIONS

The volume entitled "Southeastern Asia and the Philippines" (*Annals of the American Academy of Political and Social Science*, March, 1943, pp. ix, 219, $2.00), edited by Lennox A. Mills, is an excellent symposium on a very important region of the world. Among the contributors are well-known scholars and authorities; nearly all have lived in Southeast Asia, and some have served there in official capacities. The volume includes several papers on economic factors, two on Japanese expansion and the war, one on each of the countries considered, and a final discussion of "Some Problems of Postwar Reconstruction" by the editor. With due emphasis on economic and European factors, Professor Vinacke offers a sober appraisal of the development of Japanese expansion prior to the war of 1941. Admiral Yarnell presents a lucid analysis of "The War in the Western Pacific" and concludes that a successful attack on Japanese power should be made from continental Asia rather than from the sea or the islands. Calling attention to the larger economic area embracing Japan, China, India, and the Australian region, Arthur Upgren surveys its growing trade with, and economic dependence on, Europe and the Americas. He offers pertinent suggestions in regard to industrialization, economic stabilization, and trade expansion. Professor Callis summarizes factually foreign investments in Southeast Asia, and Patricia Barnett describes the rôle of the Chinese residing in that area. Mr. Hester's article on the Philippines is limited mainly to a digest of constitutional and statutory laws on government and trade. Much broader in scope are the treatments of the Netherlands Indies by Professor Vandenbosch; Thailand by Professor Landon; Burma by Dr. John Christian; Malaya by Sir Richard Winstedt; and French Indo-China by Dr. Joseph Handler. Each of these writers looks upon the policies of the various pre-war administrations, Western or native (in the case of Thailand), with sympathy and general approval. Therefore post-war planning centers largely on a restoration of the *status quo ante* and a further evolution of Western control. Only Dr. Handler advocates a supranational authority and an administration created to promote primarily the welfare of the native populations. It is clear, however, that any peace program which fails to satisfy the desire of these peoples for self-government, for an administration responsible for carrying out a program designed to promote their own interests instead of those of some foreign power, cannot long endure. In view of their great knowledge of conditions and problems, it is regrettable that the contributors did not, in the main, attempt to deal with the admittedly complex question of establishing orderly governments acceptable to the peoples concerned.—G. LEIGHTON LAFUZE.

After spending two decades in southeastern Asia pursuing his profession as an archaeologist, travelling about, observing, and pondering what he saw, H. G. Quaritch Wales has written a book. He had become rather well acquainted with life in India, Burma, Siam, French Indo-China, Malaya, and Netherlands East Indies, and it is of these countries that he writes. He is not concerned with his archaeological findings. Archaeology enters the story only to explain his presence in this or that place. He calls his book *Years of Blindness* (Thomas Y. Crowell Co., pp. 332, $3.00), having in mind the years during which the prestige of the white man declined and his grip upon the East weakened to the point of breaking. During these years, growing ease and luxury of life produced lassitude and complacency on the part of those sent eastward to produce profits and administer empire. The home governments, smugly satisfied with the *status quo* and reposing implicit trust in the British navy, lulled themselves into a false sense of security. The defeat of Russia by Japan, the two World Wars, and Japan's early successes in the present one led to impairment of prestige and loss of face of the whites in Eastern eyes. In these and other equally cogent factors, the author sees the causes of the decline of the position of the whites and of the disintegration of imperialism as it was. Meanwhile another trend, "parallel and conflicting," was observable. As the Asiatics desired nothing from the whites but their technique, the bubble of white superiority burst, once that technique was acquired. Turning in upon their own rich cultural heritage, they drew strength to feed their growing sense of national consciousness. "Asia has awakened," the author asserts. The *status quo ante* neither will nor can be restored. The whites will either grant freedom and equality and treat with the peoples of Asia on a basis of mutual accommodation and respect or face the prospect of having the peoples of Asia unite against them. In that event, a cataclysm appalling in its magnitude may well result.—RALPH A. NOREM.

The resources of the Hoover Library—and in particular the archives of the American Relief Administration—have again been tapped, this time to produce *The Blockade of Germany after the Armistice, 1918–1919* (Stanford University Press, pp. viii, 874, $6.00), a documentary history selected and edited by Suda Loren Bane and Ralph Haswell Lutz. The current selection includes records of the Supreme War Council, the Supreme Economic Council, the Superior Blockade Council, and other inter-Allied organizations, as well as numerous dispatches and memoranda of Herbert Hoover and revealing excerpts from the diaries of Vance C. McCormick, chairman of the Superior Blockade Council. Into sharp relief is brought the blockade controversy between the Americans and certain of the Allies, especially the French. In general, the American position was

that the continuation of the blockade was economically short-sighted and employed to further aims apart from the war. General Bliss urged relaxation "in the name of good business and in the name of common humanity" (p. 23), while Mr. Hoover doubted the binding force of a peace forced by the threat of starvation. The Americans favored relaxation as an aid in reëstablishing normal economic life, to prevent further demoralization if not another revolution, to promote public order and social tranquillity, and to prevent the spread of "Bolshevism." To Mr. Hoover, certain aspects of the continuance of the blockade on food constituted "a species of blackmail," were "absolutely immoral," and were "entirely foreign to the whole purpose of the war" (p. 131). The contrary position urged retention as an ever-present lever to warp the Germans into a satisfactory (to the Allies) peace treaty. Marshal Foch urged the "strict maintenance of the rules of the blockade" as "imperative from a military point of view . . . the severity of which can be increased or diminished according to circumstances . . . " The blockade, Foch contended, "will remain the best and most rapid means of obtaining the respect for the armistice agreement and, in a general way, for compelling Germany to bow to our wishes" (p. 92). Clemenceau supported Foch, believing that the Germans "were simply attempting to blackmail the Allies" and that "to yield today would simply mean constant yielding in the future" (p. 209). Part II deals with American and Allied policies on censorship during the period, while Part III presents interesting press comments, especially British and American, on blockade and food policies. An adequate index is included.—Ivan M. Stone.

In publishing Walter Sulzbach's *National Consciousness* (American Council on Public Affairs, pp. xii, 168, cloth $3.00, paper $2.50), the Council has provided Americans with the means of obtaining a deeper understanding of nationalism as the most distinctive and powerful force of our times. Sulzbach has a thesis which is unusual rather than unique. Nationalism, he avers, is an acquired, subjective feeling of "a group of people which wishes to be sovereign among other peoples and therefore desires a state of its own" (p. 66). It is nationalism, usually in the form of imperialism (the tendency of a state to enlarge the area of its power," p. 113) rather than economic, dynastic, or religious interests, which is the root of war. It is chiefly our feelings, then, instead of nicely and coldly calculated economic considerations, which determine the issues of foreign policy. Indeed, concern with war as a function of nationalism dominates this book. National honor, for example, the author equates with a nation's reputation as a fighter, i.e., as a "power"; and the problem of peace is perforce tied up with the future of nationalism. Perhaps nationalism itself may be rendered harmless if men develop the feeling

that, after all, their nationalism is of subordinate importance, just as dynasties and religions are no longer considered reasons for war; perhaps there will even be a subjective equivalent or substitute for war. Here Sulzbach tries hard to be optimistic as he points out that in several instances, notably the English reaction to the Munich pact, nationalism and national honor have lost appeal. For most political scientists and historians, *National Consciousness* presents little that is new except in emphasis and examples; some will consider useful and provocative the definitions of nationalism, patriotism, national honor, and imperialism. Many community leaders will find the book helpful in terms of new insights, new points of view, and new materials. Sulzbach employs sociopolitical language and illustrates his views with a multitude of quotations from statesmen, historians, and psychologists. His book carries the impression of hard work, wide reading, and careful reasoning. Whoever reads it should have a more lively and discerning understanding of contemporary nationalism.—GARLAND DOWNUM.

Under the leadership of a number of well-known religious pacifists, the Pacifist Research Bureau is conducting a study of domestic and international problems arising from the war. Numbers 2 and 3 of Series II are pamphlets entitled, respectively, *Coercion of States: In Federal Unions*, by Harrop Freeman and Theodore Paullin, and *The Balance of Power*, by Edward Gulick (Philadelphia: Pacifist Research Bureau, pp. 68, 59). In the former, the authors review practice within the following unions of states: United States of America, the British Commonwealth of Nations, the Union of South Africa, Canada, Australia, Germany (under the Hohenzollerns and in the Weimar Republic), the United States of Brazil, Russia, the Greek federations, and the Hanseatic League. They conclude that when coercion has been used against the members of those unions it has had "a disruptive, not a cohesive, influence." Successful unions, they maintain, cannot be created or operated by military power; certain "intangible and previously unappreciated forces," such as geography, and economic and cultural interdependence, are held to be essential. Applying these ideas to world organization, the position is taken that the difficulties will be "immensely greater for those who would base the League of Nations on coercion" than for the proponents of coöperation. In *The Balance of Power*, Mr. Gulick has outlined the origin of the doctrine, given several "case histories," and made a number of generalizations as to its advantages and disadvantages. The latter, he believes, far outweigh the former. He argues that the balance of power leads to armament races, secret diplomacy, treaty-breaking, and war. He denies that the doctrine is compatible with democracy and contends that the whole concept is fundamentally faulty. Although the authors of both

pamphlets appear to have started with a point of view and used the methods of research to substantiate it, they have presented their ideas in a clear and challenging manner. Many readers will disagree with their views, including their interpretation of historical events.—NORMAN L. HILL.

Mr. Ervin Hexner's *The International Steel Cartel* (University of North Carolina Press, pp. xvii, 339, $6.00) is a comprehensive and well-documented study about one of the most important, and also one of the most controversial, instruments of international economic coöperation. The book deals extensively with the difficult theoretical problems of national and international cartelization of industry and reviews in considerable detail the history, the structure, and the functions of one of the world's most powerful "combinations of combinations," the International Steel Cartel, which, in the words of the author, constituted an "attempt to concentrate the collective control of the world steel export market in the hands of one rather complex body which may justifiedly be designated as monopolistic in tendency" (p. 33). Particular emphasis in the book is laid upon the part played by the American steel producers in the I.S.C. and upon the American approach to the cartel problem in general. Although the author has had many years of practical experience with steel problems, as coördinator of the trade policies of the Czechoslovakian steel industry and as its representative in the international steel cartel, his book does not pretend to be an "inside story" on steel. It is a matter-of-fact analysis of pricing policies, of distribution control mechanisms and of marketing devices, of cartels, holding companies, and interlocking directorates, devoid of sensational revelations about the "gatherings of inconspicuous business men" who dominated the international steel market. In the author's opinion, the "relevance of the pattern of international cartels to the political and economic problems of the last two decades has been greatly exaggerated by representing international cartels as demiurges of good and evil." According to him, "the International Steel Cartel did not contribute actively to the maintenance of international peace, nor did it serve as a link in an international conspiracy of capitalists directed against world peace" (p. 239). To this reviewer, Hexner's treatment of the political implications of the steel cartels appears somewhat vague and inconclusive and perhaps not fully convincing; nor do the lengthy digressions of idealism and realism in world politics, of Chamberlain at Munich, or Thyssen and Hitler, shed any new light on the focal questions of national and international economic control. But this criticism does not touch the main body of the work, which is highly informative, and which will prove of considerable help to both economists and political scientists who are interested in the important task of reorganizing the world's steel markets at a future peace table.—FRITZ ERMARTH.

In his *International Agreements on Conservation of Marine Resources* (Food Research Institute, pp. 197, $3.00), Jozo Tomasevich shows how international coöperation helped to conserve our supply of fur seals, Pacific halibut, and sockeye salmon. The rise of pelagic sealing after 1890 threatened the entire herd on the Pribilof Islands with extinction. During the period 1870–89, seals taken by this method amounted to only 12.3 per cent of the total catch, but in 1890–1909 the percentage rose to 64.5 per cent. Canada was the main beneficiary of pelagic sealing, as, unlike the other interested powers, she possessed no rookeries of her own. Her objections to the elimination of pelagic sealing were overcome in 1911, when a treaty concluded by the United States, Great Britain, Russia, and Japan awarded to Canada 15 per cent of all seal-skins taken by the United States on the Pribilof Islands. Japan received similar treatment. Under this treaty, the subjects of all four powers were forbidden to engage in pelagic sealing. The success of this treaty was astounding. The total number of animals in the herd increased from 215,000 in 1912 to 2,338,000 in 1941. The treaty expired on October 23, 1941, following denunciation by Japan. Efforts were made to conciliate Japan in 1941, when the United States authorized a 50 per cent increase in the number of seals to be killed in that year. This would have increased by a similar percentage the number of skins Japan would receive. An American-Canadian treaty of 1930 provided for the conservation of Pacific halibut. It created an International Fisheries Commission clothed with power to limit the catch of halibut and to close areas known to be populated by immature fish. Another American-Canadian treaty of 1930 provided for the creation of an International Salmon Fisheries Commission to make a scientific investigation of the sockeye-salmon fishing industry. A full report is not expected until 1945.—Robert Stanley McCordock.

Upton Close, *Behind the Face of Japan* (Appleton-Century Company, pp. xi, 427, $4.00), is a reprint of the author's book of the same title published in 1935. It could be called an "I told you so edition," since the author has no hesitancy in emphasizing that his earlier statements and prophecies have been proved by subsequent events. The book is a compilation of facts, anecdotes, and opinions put together in journalistic style, designed to reveal to the reader the "real" Japan. A lack of balanced organization of material, however, is likely to leave with the reader a series of impressions and "headline" comments, rather than a coherent picture of the Japanese nation. In spite of the author's post-Pearl Harbor additions to his earlier statements, there is a gap in the story of Japan covering the years 1935 to 1941, a period of very great importance and one not adequately dealt with in this book. Readers may find new stories, but not much in the way of solid interpretation that is not given better in recent books on Japan.—William C. Johnstone.

POLITICAL THEORY AND MISCELLANEOUS

Dr. Silvio Zavala, author of *New Viewpoints on the Spanish Colonization of America* (University of Pennsylvania Press, pp. 118, $1.25), has published in the past ten years a number of outstanding books, all of them devoted to the Spanish colonization of America and specifically of Mexico. He is the editor of the *Revista Historia de America*, a publication that in itself gives a good impression of the high level already attained by Mexican historians; and he is the author of five volumes in which are contained hitherto unpublished documents of the Archivo General de la Nacion, Mexico—studies relating to the Indians in the Viceroyalty of Mexico, war contracts, the problem of wages, and all the social aspects of the practical relations between employer and employee resulting from court decisions. Mr. Zavala is the author also of a splendid book published in Madrid several years ago on the judicial institutions of Spanish colonization. Finally, in 1940, he published a monograph, *De Encomiendas y Propiedad Territorial en Algunas Regiones de la America Española*. As a result of his researches over a long period—first-hand investigation in the archives of Spain, Mexico, and the United States—he was invited by the Carnegie Foundation to deliver a series of lectures in this country in 1941–42 on "Spain's Conquest and Colonization of the New World." The key questions—enslavement of the Indians, the *encomiendas*, the labor of natives, and the social experiments which accompanied and followed the conquest—are specially relevant topics in the resulting exceptional book now under review. In the light of the researches made by Mr. Zavala and the agreement of his findings with the conclusions of recent studies made in other South American countries, the traditional conceptions concerning the status of the Indians during the period of colonization must be radically revised. This applies even more emphatically to our conception of the *encomienda* as a territorial title rather than one of the forms of *senorio* similar to some of those existing at that time not only in Spain but in most of the other countries of Europe. The thesis which I expounded as long ago as 1926 when I was a professor in the University of Madrid, and in various publications since that time, has now received documentary proof. This book must be considered fundamental to scholars interested in the history of colonization, and specifically in the social, economic, and political history of Hispano-America. Dr. Zavala is today without doubt one of the most prominent historians in Ibero-America.—FERNANDO DE LOS RIOS.

Sociologists will find *Origins of American Sociology* (Thomas Y. Crowell Co., pp. xiv, 866), by L. L. Bernard and Jessie Bernard, of much interest and value. It should be examined by other social scientists also.

For there is presented the thesis that the social sciences are of major importance in a liberal-democratic society. Also emphasized is the close relationship among all of the social sciences. Only matters accepted by the authors as antecedents of sociology are treated, but it is recognized that many of these antecedents are likewise antecedents of other social sciences. For instance, the American Social Science Association is listed as an antecedent of the American Prison Association, the National Conference of Social Work, the American Historical Association, the American Economic Association, the American Political Science Association, and the American Sociological Society. Major emphasis is given to the college and university discipline known as social science as it developed in the United States from 1840 to 1890, as the most direct and immediate predecessor of sociology. Its indebtedness to developments in England and France in the seventeenth and eighteenth centuries is acknowledged, and its development in the United States in the nineteenth century is labeled an ardent, practical, democratic idealism. The study traces the social science movement through various stages of development. At first it is presented as utopian, then metaphysical, and next a realistic approach to social welfare and reform. From this results organization to discuss and promote reforms, and next it becomes an academic discipline, giving rise to various methodologies with particular emphasis upon statistical procedures. The most recent development is the present-day division into separate social sciences, including sociology. Writings of numerous advocates of these various approaches and methods are summarized and discussed. Obviously, the authors have contributed much time and effort to this volume. They hope that it may be useful as a reference work in all the social sciences, and as a text in sociology courses. The first should materialize readily, but the reviewer considers the study too long and involved to be feasible as a text. Inclusion of a name index as well as a subject index adds to its value.—CHRISTIAN L. LARSEN.

The American Economic Association, through a committee composed of Edgar M. Hoover, Jr., and Joel Dean, has presented in *Readings in the Social Control of Industry* (The Blakiston Co., pp. 494, $2.75) the first volume in the "Blakiston Series of Republished Articles on Economics." It is the object of such republication to draw together in one convenient volume outstanding contributions in economic thought and analysis, so arranged as to present several intensive, though short, analyses of the same general subject. Volume I contains a number of studies on the control of competition and monopoly by means of statutes, judicial doctrines, and administrative devices. Whether or not the selection is "tops," I cannot say, but all the articles are excellent and worthy of study. Thirteen authors appear, including Corwin D. Edwards, Edward S. Mason, Milton

Handler, Donald H. Wallace, Ben W. Lewis, Arthur Robert Burns, and J. M. Clark. A number of these authors are, or have been, with the Office of Price Administration, where theory and practice are engaged in a titanic struggle to prevent inflation. To read these articles now seems definitely academic; yet wrestling with the stubborn facts of inadequate information, vested interests, ruthless political pressures, administrative weaknesses, and other elements in the stabilization picture, serves to emphasize the usefulness of well-founded theory in guiding generalized policy action during an emergency period. Without principles, the facts may be incorrigibly chaotic. It will be of great interest to read the post-war writings of these men who have been through the fire of testing the steel of theory on the anvil of practical application. The idea of republishing such articles is meritorious and deserves encouragement.—HARVEY PINNEY.

Though not clearly indicated by its title, *Economic Analysis and Public Policy* (Prentice-Hall, Inc., pp. xix, 935, $4.50), by Mary J. Bowman and George L. Bach, is a textbook for introductory courses in principles of economics. Its merits or demerits as a textbook need not detain us in this short review. The aim of the book is to relate theoretical analyses to problems of current public policy so that economics will be more meaningful in studying real-world problems. The discussion in many of the chapters is traditional. However, there is a clear recognition of the fundamental changes which have taken place in the American economy over the past twenty or thirty years, and the treatment gives pointed consideration to these changes. Particular emphasis is placed on the growth of large corporate enterprises and the concentration of economic power, pressure, and control exercised by these organizations, and the bearing of this on public policy. Recognition is given, too, to the relation of economic phenomena to social goals, and the authors appreciate the forces which have driven governments to exercise more and more control and to intervene in economic matters. They anticipate increased central planning of the economic life of the country. The writers of this volume indicate an awareness of current economic realities and trends not usually found in an introductory textbook in economics.—NATHAN L. SILVERSTEIN.

Two years after the death of the Rebel of the House of Adams, there began a great depression, the deeper causes of which he could have examined with great acumen and historical insight. We shall never see his analysis of this crisis, but, thanks to Charles A. Beard, we do have a new printing of Brooks Adams's *The Law of Civilization and Decay* (Alfred A. Knopf, pp. 349, $3.50), together with a most absorbing introduction by Dr. Beard which throws a good deal of light, not only upon the writing of that fifty-year-old essay, but also upon its place "in the long line of American protests against plutocratic tendencies in American development,

which appeared in systematic form during the contest over the creation of the Constitution and has recently found vivid expression in the New Deal." Fresh manuscript materials from the Adams family archives reveal that Henry Adams was probably less the teacher than the student in his long conversations and correspondence with his brother when the first London edition (1895) was being prepared. Henry warned Brooks that he was "monkeying with a dynamo," and that the book would seal his doom politically. There is an account of the book's public reception, including Theodore Roosevelt's critical review of it in 1897. He found it a "powerful" if "melancholy" book. It is still a very timely one. The present printing is of the New York edition of 1896, which is elaborately compared with the British and French editions. Dr. Beard's introduction is to be regarded as an important chapter in the intellectual history of the United States.—JAMES J. ROBBINS.

Because the important policy decisions will be made, "not by economists in academic convocation, but by the leaders of business, of labor, and of political life" reacting to the people's convictions, William H. Stead designed *Democracy against Unemployment* (Harper and Brothers, pp. ix, 280, $3.00) for the general reader. He discusses in this monograph what he considers to be the major problems of post-war planning, and a long-run enemy more dangerous to democracy than fascism—unemployment. He thinks that once the factors of unemployment are identified, adjustments to them can be made; and to this end, the various types of unemployment are classified: as long-run, if resulting from maldistribution of purchasing power, or as recurrent and capable of amelioration by specific solution, if resulting from internal industrial conditions. For the former, he proposes such devices as industrial planning for stable employment conditions, and governmental planning in terms of relief programs, public works, social insurance, and a nation-wide employment exchange system. For the latter and the more central question of unemployment, coöperative readjustment between government and industry and the use of such government controls as an upgraded tax program, low-income group subsidy, wage control, and reinvigorated international trade are suggested. However, the assumption that unemployment is the one major problem is invalid; in our society no single issue is paramount. Perhaps, the recent stress on post-war planning influenced the author to broaden unduly the scope of his study, or, the many years spent with the United States Employment Service caused him to lose sight of the "forest." When the discussion is limited to the direct causes of, and the cures for, unemployment, the treatment of the subject-matter is excellent. Had the author viewed his topic in its proper perspective instead of attempting to make its solution the keystone for all post-war plans, the book would have been a more significant contribution.—RITA DAVIDSON.

The reconciliation of liberty and discipline is an inherent problem in the use of political power. Good government, which is both just and efficient, must balance the demand for political discipline by the powerful in numbers, wealth, or religious dogma with the defense of free choice by the few, the poor, and the credulous. This is difficult because power tends toward action by force. The best political device for maintaining equilibrium in the application of power is the representation of groups in proportion to their numerical strength, thus guaranteeing the democratic process of compromise by representatives. Decision on controversial policies is likely to be delayed, but the probability of irreparable injury to a minority by arbitrary force is minimized. Opponents of P. R., like F. A. Hermens of Notre Dame, focus attention upon the danger of delaying decision in times of crisis. In his pamphlet, *P. R., Democracy and Good Government* (Review of Politics, Notre Dame University, pp. 90, cloth $1.25, paper $0.75), Hermens aims to supplement his *Democracy or Anarchy* (1941) and reply to his critics. His account of the recent operation of P. R. in Italy, Germany, Poland, and Czechoslovakia and in eight American cities is so prejudiced, however, that his conclusions are discredited, and his consideration of P. R. practice is so intolerant that he disqualifies himself for the democracy which he pretends to advocate. His plea for plurality rule by the dominant faction has the character of ecclesiastical absolutism. Nazi rule in Germany may be efficient, but it is tough on the Jews. Such injustice is not so much the result of P. R. as the absence of minority representation.—JOHN ELY BRIGGS.

The contemporary socialization of trusteeship, whether under public or under corporate management, demands more attention than has yet been given it; but Norman Stewart Heaney's slim volume on *Public Trusteeship* (Baltimore: Johns Hopkins Press, pp. 130, $1.50) goes far toward filling the gap. He shows how the difficulty of finding a reliable individual to act as trustee led to experimentation by English-speaking people in all new countries in the nineteenth century. In the United States, these experiments produced the trust company; in New Zealand, the public trustee. In England itself, both movements have had their backwash, the public trustee battering a breach in the solicitors' monopoly, and the banks now entering to fill the greater part of this breach. But it is in New Zealand that public trusteeship has had its fullest development. Lieutenant Heaney shows how in seventy years it has spread its activities so wide that it there lends money now to the farmer and to local government, looks after pension funds and the property of enemy aliens, handles receiverships, provides free legal aid for the common man, and eliminates many expensive court formalities. In its brevity, clarity, and scholarship, this is a distinguished addition to a long line of notable Johns Hopkins studies.—W. HARDY WICKWAR.

RECENT PUBLICATIONS OF POLITICAL INTEREST

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CLYDE F. SNIDER
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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